

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

Case No. **OA - 756 OF 2016**

BIKASH NASKAR & OTHERS Vs. THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;"><u>07</u> 19.06.18</p>	<p>For the Applicants : Mr.P.K.Mondal Learned Advocate</p> <p>For the Respondent : Mr.D.Koley Learned Advocate</p> <p>The applicants have prayed for quashing of the order dated April 26, 2016 passed by the Respondent No. 2, Director of Health Services, Government of West Bengal, by which prayer of the applicant No.1 for compassionate appointment was rejected.</p> <p>It appears from materials on record that one Surath Kumar Naskar died on April 16, 2000 when he was working as GDA at N.R.S. Medical College & Hospital. Surath Kumar Naskar died leaving behind his wife and six (6) sons as legal heirs. The applicant No. 2, Dipak Naskar submitted application in prescribed format for compassionate appointment on September 23, 2000 and the same was rejected on February 8, 2006. On February 18, 2009, the applicant No.1 Bikash Naskar again submitted application for compassionate appointment which was also rejected on August 4, 2011 and the decision was communicated to the applicant</p>	

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	<p>No.1 on October 19, 2011. The applicants approached the Tribunal by filing OA-725 of 2013 whereby the applicants prayed for quashing of the order of rejection of prayer of the applicant No.1 for compassionate appointment. On February 3, 2016, the Tribunal directed the Respondent No.2 to take a decision on merit about the claim of the applicant No.1 for compassionate appointment and to communicate the same to the applicant No.1. Accordingly, the reasoned order dated April 26, 2016 was passed by the Respondent No.2, which is under challenge in the present application.</p> <p>Learned Counsel for the applicants submits that the Respondent No. 2 did not take into consideration financial hardship of the members of the family and as such the impugned order is liable to be set aside. He has relied on Division Bench Judgment of the Hon'ble High Court in the case of "Santosh Kumar Sahoo V. Union of India" reported in 2017 (2) CHN (CAL) 305 in support of his contention that financial hardship of members of the family of the deceased employee was not taken into consideration at the time of rejection of claim of the</p>	

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	<p>applicant No.1. On the other hand, Learned Counsel representing the State respondents contends that there was no acute financial crisis in the family of deceased employee as all the sons of the deceased employee are employed.</p> <p>In "Santosh Kumar Sahoo V. Union of India" (Supra) the Division Bench of the Hon'ble High Court at Calcutta dealt with the case where the financial liability of members of the family of the deceased employee was not taken into consideration at the time of assessment of income of members of the family of the deceased employee. Moreover, the said reported case was in connection with the employee of Government of India and the scheme for compassionate appointment of the dependants of the deceased employee of Government of India cannot be invoked by the applicant No.1 of the present case who will be governed by the scheme framed by the Labour Department, Government of West Bengal. In the present case, there is nothing on record to indicate that there was any liability on the part of the members of family of the deceased employee. Accordingly, the ratio of "Santosh Kumar Sahoo V. Union of India" (Supra) cannot have any bearing on the facts of the present case.</p>	

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BLR	<p>On perusal of the impugned order under challenge in the present application, we find that the applicants have made repeated attempts to get compassionate appointment even when all the sons of the deceased employee are employed in private sector, except the applicant No.1 who is earning from private tuition, apart from family pension enjoyed by the wife of the deceased employee. The report submitted by three men enquiry committee on January 25, 2010 indicates that the members of the family of the deceased employee are not in acute financial crisis and as such the claim of the applicant No.1 for compassionate appointment was rightly rejected by the Respondent No.2. We do not find any merit in the present application. As a result, the application is dismissed.</p> <p>Urgent xerox certified copy of the order, if applied for, be given to the parties on priority basis on compliance of all necessary formalities.</p> <p style="text-align: center;">(S.K.Das) MEMBER(A)</p> <p style="text-align: center;">(R.K.Bag) MEMBER (J)</p>	