

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

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)

The Hon'ble Mr. P. Ramesh Kumar, Member (A)

Case No – OA-810 of 2017.Sujit Dalui. Vs The State of West Bengal & Others.

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>07</p> <p>-----</p> <p>07-03-2019</p>	<p>For the Applicant : Mr. N. N. Roy, Advocate.</p> <p>For the State Respondents : None.</p> <p>Affidavit of service has been filed be kept on record. None for the respondent.</p> <p>The instant application has been filed praying for a direction upon the respondent to appoint the applicant on compassionate ground. As per the applicant, his father died on 03-01-2015 while working as Work Charged employee of Burdwan South Highway Division under Western Highway Circle No. 1, PW (Roads) Directorate. Thereafter, he applied for compassionate appointment before the authority and the immediate authority have processed his case for final decision and the competent authority vide order dated 29-06-2017 (Annexure-D) had rejected the prayer of the applicant on the following grounds :-</p> <p>“It is seen from the reports submitted by the Executive Engineer, Burdwan South Highway Division that Late Dibakar Dalui was an employee of Burdwan South Highway Division,</p>	

ORDER SHEET

Sujit Dalui

Form No.

Vs.

The State of West Bengal & Others.

Case No. OA-810 of 2017.

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>Public Works Directorate under Work Charged Establishment. He was not absorbed against regular vacancy and did not brought under regular establishment in consonance with the provisions as laid down in Government Order No. 4026-F dated 22-04-1974 till the date of his death. Services rendered as work charged Employee cannot be treated as regular service in Government employment. As per prevalent rules issued by the Government in this regard that compassionate appointment shall be offered to a dependent family member of a deceased Government employee who is appointed on regular basis against regular vacancy. At Para (2) of the Notification No. 251-Emp dated 03-12-2013 of the Labour Department, Government of West Bengal, it is stated that the West Bengal Scheme for compassionate appointment “shall apply to a dependent family member of a Government Employee.....” and it is clarified at Para 3(f) of the said notification. “Government employee for the purpose of the scheme means a</p>	

ORDER SHEET

Sujit Dalui

Form No.

Vs.**The State of West Bengal & Others.**Case No. OA-810 of 2017.

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>Government employee appointed on regular basis and not the one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis”.</p> <p>In view of the said facts, it is concluded that, the primary condition for having employment of compassionate ground as stipulated in Labour Department’s order nos. Issued time to time was not fulfilled in the instant case. Thus, the prayer of the applicant is considered, but rejected, due to the reason stated above”.</p> <p>Being aggrieved with, the applicant has filed the instant application.</p> <p>During the course of the hearing the Counsel for the applicant on query made by us, has fairly submitted that as a work charged employee, who is not in a regular establishment, is not entitled for compassionate appointment. However the respondent should consider his case on compassionate ground.</p>	

ORDER SHEET

Sujit Dalui

Form No.

Vs.**The State of West Bengal & Others.**Case No. **OA-810 of 2017.**

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
Mihir	<p>Heard the Counsel for the applicant and perused the impugned order. It is clear that the case of the applicant was rejected on the ground being dependent of work charged employee. As in the scheme of the State Government there is no provision for consideration on compassionate appointment for dependent of work charged employee, who not being a government employee. His case cannot be considered for compassionate appointment as has been held by the Hon'ble Apex Court on the same issue.</p> <p>Therefore we do not find any prima facie case in the instant application for challenging the impugned order. Accordingly, the OA is dismissed being devoid of any merit in the initial stage with no order as to cost.</p> <p>Plain copy.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

ORDER SHEET

Sujit Dalui

Form No.

.....

Vs.

The State of West Bengal & Others.

Case No. OA-810 of 2017.

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