

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. –OA 20 OF 2020

SUKUMAR ORAON - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicants : None
and
Date of For the State Respondents : Mr. M.N. Roy,
order Advocate

15
16.05.2024

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

After death of his father, serving as an elephant Mahout on 25.01.2008, this applicant, being the son, prayed for an employment under compassionate ground. The plain paper application was submitted on 27.07.2012 and the proforma application on 12.12.2012. Since a delay had occurred in submitting the prayer, the Divisional Forest Officer took upon himself the authority to condone the same. In terms of the relevant notifications, such an application should have been preferred within two years from the date of death of the employee. However, in this case, the applicant submitted his application after a delay of 4 years 10 months and 17 days. A reasoned order passed by the respondent authority was challenged in this Tribunal, which after consideration quashed the same with a direction to reconsider the matter. The Tribunal had taken note of the fact that such delay in submitting the application had been condoned by the Divisional Forest Officer. In terms of such direction, the respondent authority considered the matter afresh and passed a reasoned order on 18.11.2016.

It is not in dispute that the application which was required to be submitted within two years from the date of death of the employee was submitted much later. Though the Divisional Forest Officer had no authority to condone such delay, but the fact remains that the delay had occurred. A mistake made by a government official cannot be supported and such mistake cannot be the reason for consideration of an application. Be that as it is, however, it is important to note that the Divisional Forest Officer was also not the authority to decide on an application for compassionate employment. The competent Department, being the Labour Department, has already expressed its opinion and held that

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any application submitted more than two years after the death of the employee is not admissible.

Since the fact of such delayed application has not been disputed, the material issue in this application, therefore, remains whether such application submitted by the applicant was a valid and admissible application or not. After ignoring the mistake of the Divisional Forest Officer, the Tribunal is of the opinion that the applicant did not prefer such an application within the stipulated time as laid down in the Rules governing administration of compassionate employment. It is also important to recall that in several judgements the Hon'ble Apex Court has laid down the law that compassionate employment is neither a vested nor a hereditary right. In this case, the statutory Rules governing eligibility has not been found fulfilled, therefore, the Tribunal does not hesitate in expressing that the application of the applicant from the very beginning was an invalid application and the respondent authorities were correct in disallowing the same. Further, this scheme is a need-based concept where the applicant has to satisfy that due to the sudden death of the employee the family was plummeted into serious financial crisis. Nowhere in the application nor in the submission of the counsel, such situation has been presented. The very fact that the applicant was able to continue his livelihood after the death of the employee is admission of the fact that there was no serious financial dependency in the family which required urgent assistance of the State.

In view of the above observations, the Tribunal does not find any merit in this application and is disposed of without any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.