

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 11 of 2022

AMIT PAUL – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No.

and

Date of

order

For the Applicants : None

For the State Respondents : Mrs. Sunita Agarwal,
Advocate

15

02.05.2024

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.

In brief, the case relates to compassionate appointment of the applicant. The reasoned order was passed by the respondents in terms of the order passed in O.A. 297 of 2021 which rejected the application on several grounds. Challenging the reasoned order passed by the respondent, this application was filed by the applicant. The respondent in his reasoned order has shown total monthly family income of Rs. 28,557/- which appears to him to be higher than the 90% of gross monthly salary last drawn by the deceased employee which comes to Rs.19,926. Based on the above calculation, the respondent felt that the family was not going through any financial hardship. The respondent also was told by the applicant that his monthly income comes to around Rs.10,000/- from the kind of work he is engaged and from the pass book of the applicant's bank account. Respondent states that a total of Rs.2,46,459/- was the balance stood as on 08.04.2018 and Rs.6,83,086 is balance on 18.02.2021. Further, the reasoned order also mentions entries of amounts varying from Rs.20,000/- to Rs.55,000/- on different dates mentioned in the bank passbook of the applicant. From the above, the respondent assumed that the applicant has never fallen on financial liquidity both from the family pension as well as from his own income. Thus, the respondent, not being satisfied with the financial hardship, after examining the financial position of the family, has rejected the application for compassionate employment. The rejection relies on the Labour Department's Notification No. 251-Emp dated 03.12.2013 in which the applicant's income for compassionate employment should not be more than 90% of the gross salary of the deceased employee. It will be useful if we examine the relevant notifications relied on this application both by the applicant as well as by the respondent. As we understood from the observations noted above, the respondents have rejected the application for compassionate employment relying on paragraph (6) (a) (i) of 251-

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Emp dated 3rd December, 2013 which is quoted as under:-

“6) Eligibility – (a) (i) The monthly income of the family falls below 90 per cent of the gross monthly salary of the employee before death or premature retirement.”

Submission of Mr. Sinha Roy, learned counsel for the applicant is that the relevant notification for relying is No.30-Emp dated 2nd April, 2008. The respondent, instead of passing order on the basis of 251-Emp, which came into effect from 3rd December, 2013, should have been considered the application under No.30-Emp dated 2nd April, 2008 which was in force. Paragraph 3. (a) No.30-Emp dated 2nd April, 2008 came into effect from 02.04.2008 and subsequent amendment was published on 14th August, 2008. The relevant para of 30-Emp with its revised version says:-

“3. (a) The monthly income of the family falls below 80 percent of the gross monthly salary of the employee before death or premature retirement.”

Mr. Sinha points out to Section ‘C’ of Notification No. 114-Emp dated 14th August, 2008, the relevant portion of which is as under:-

“C..... Since GPF accumulation is entirely out of savings of the Government employee during his service period, it is now decided that the same shall not be reckoned for the purpose of computing the monthly interest income.”

The contention of Mr. Sinha is that the GPF which was the contribution of the employee should not be a part of the family income as stipulated in this relevant notification.

Mrs. Sunita Agarwal, learned counsel appearing on behalf of the respondents submits that in the reasoned order, the respondent had not included the GPF amount. The calculation made by the respondent in the reasoned order appears to be Rs.28,557 with the following break up:

Rs. 10,128 - family pension
Rs. 5,429 Assuming 8% interest per annum on death benefits Rs.8,14,420/-
Rs. 7,000 monthly income of Manoj Pal elder brother
Rs. 6,000 monthly income of Tapas Pal

Total Rs.28,577

It is clear from the above calculation that the reasoned order while assessing the family income did not include the GPF of the deceased employee as submitted by Mr. Sinha Roy,

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relying on Emp-114 dated 14th August, 2008.

Having heard the learned counsels for the parties, the Tribunal observes the following :

The contention of Mr. Sinha that notification No.251-Emp is not relevant in this matter, rather notification 30-Emp, dated 2nd April, 2008 is the relevant notification is wrong. In fact, the notification 251-Emp dated 03.12.2013 specifically states that such notification will supersede all previous notifications. Even assuming that notification 30-Emp is the relevant notification, it also stipulates that an application for compassionate employment should be made within six months from the date of the death of the deceased employee. In this case, however, the application for compassionate employment was made after one year and two months.

In view of the above observations, the Tribunal has come to the conclusion that this application for compassionate employment has no merit and the reasoned order passed by the respondent was within the framework of Rules of the scheme. Hence, no order is passed in this application. The application is disposed of.

SCN.

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

WEST BENGAL ADMINISTRATIVE TRIBUNAL