

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-            The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. – OA 148 of 2024**

Shibanshu Dey -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: None
	For the State Respondent	: Mr. G.P. Banerjee Learned Advocate
<u>02</u> 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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

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

In this application, the applicant has prayed for setting aside the impugned order No. 2456 dated 23.09.2021 passed by the Additional Chief Secretary, Home and Hill Affairs Department. In terms of direction of this Tribunal in OA 36 of 2021 such a Reason Order was passed which re-considered the application for employment on compassionate ground. The Reasoned Order found that the applicant was a minor of only 15 years and 24 days. Therefore, at the time of death of the deceased employee, his father. Therefore, in terms of the provisions of the Rules governing compassionate employment, he was found ineligible for an employment under compassionate ground. Though the applicant after having attained the age of employment on 23.03.2013, had submitted such an application in the prescribed proforma on 19.01.2014 but the same was not accepted for being a delayed application. The Reasoned Order refers to the relevant Notifications 251- EMP and 26- EMP and considered this application as having been submitted after the lapse of the stipulated time.

The Tribunal finds that though the application of the applicant was rejected on the two aforesaid grounds, but it also noticed that the mother of the applicant had submitted a plain paper application praying for an employment in favour of her son, the present applicant. Such application was furnished on 19.07.2010 before the respondent authority within three months from the date of death of the deceased employee. However, the Tribunal finds that she had applied on behalf of her minor son when he would attain the required age of appointment. Though at the time of death of the

Form No.

Case No. **OA 148 of 2024**

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**Vs.**

The State of West Bengal & Ors.

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deceased employee, the widow and mother of the applicant was herself eligible for such employment not to apply but she chose for herself. By filing a plain paper application on behalf of her minor son, she had thought such an employment will be more gainful to the family. From this action on her part, the Tribunal gets the impression that the mother instead of herself wanted her son to gain from such employment, when he would attain the age of employment. The Rules covering compassionate employment makes it clear that such an employment is not offered to the children of the deceased employee who were minor at the time of death of the employee. The Rules also do not make the scheme an open ended so that such minors can benefit from such employment when they attain the age of employment. In this case, it is very clear that the applicant was a minor at that point of time and though the widow was eligible but she chose not to apply. This Scheme cannot be made adjustable to suit the case of a family. The purpose of this scheme is to extend a helping hand at the crucial time when the bread winner has suddenly left the family leaving it into serious financial difficulties. Such right of compassionate employment is neither inherent nor it can be left open till the legal heirs become eligible for such employment.

Therefore, having found no merit in this application, this application is disposed of without passing any orders.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

H.S