

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 250 of 2023**

SHEELA CHATTORAJ & ANR. - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

05
02.05.2024

For the Applicants : Mr. G.P. Banerjee,
Learned Advocate.

For the State Respondents : Mrs. S. Agarwal,
Learned Advocate.

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 contesting parties, the case is taken up for consideration sitting singly.

This application has been filed praying for setting aside the impugned Memo. passed by the respondent authorities on 17.02.2023. In terms of direction of this Tribunal by its order dated 16.09.2022, the respondent authority passed this order rejecting the application for employment under compassionate ground. The primary reason is that the applicant was a minor and only 11 years old at the time of death of his father, Surya Kanta Chatteraj on 18.07.2008 serving as an Agrabami staff under West Bengal Civil Emergency Force. Though the mother of the applicant had furnished a proforma application on 18.02.2009 praying for such an employment for herself, but later on 02.01.2014 it was withdrawn, in favour of her son, the applicant No. 2 Chandra Kanta Chatteraj. On 11.04.2014, the son now having attained the age of employment furnished his application in the prescribed proforma. In terms of this Tribunal's direction in OA- 1002 of 2016 dated

16.09.2022, the respondent authority passed this impugned order on 17.02.2023 rejecting the application on the ground that the application was filed after a delay of more than 5 years. The reasoned order also observed that the applicant was a minor at the time of death of the deceased employee and therefore, not eligible for such employment. The relevant provisions of the rules governing the compassionate employment has been cited. Submission of Mr.G.P.Banerjee is that the application of the applicant has merit and should have been considered in the light of judgement of Hon'ble Apex Court in Syed Khadim Hussain Vs. State of Bihar & Others reported in 2006 (9) SCC 195. In this judgement the Hon'ble Court held that even the application filed within time by the mother on behalf of her son was valid application and should have been considered by the respondent authorities.

Appearing on behalf of the State respondents Mr.S.Agarwal points out that though it appears from the submission of Mr.Banerjee such an application has been filed praying for a direction to the respondent authorities to give such an employment to the son of the deceased employee, Chandra Kanta Chatteraj, but as it appears from the prayer under the relief sought for portion, both the applicants, mother and the son have prayed for such an employment. Having submitted no objection by the mother on behalf of her son how can she again pray for an employment for herself. Further, Mrs.Agarwal argues that not only the applicant, Chandra Kanta Chatteraj was a minor at the time of death of his father, but such belated application filed by him on 11.04.2014 is not covered under the provisions of 10 (aa) of Notification 26 Emp. Mrs.Agarwal relies on a judgement of the Hon'ble Apex Court in State Bank of India & Anr. Vs. State of West Bengal & Ors (2010) 11 SCC 661.

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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. 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 AND MEMBER (A)

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