

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 781 of 2022.

BRAJAMOHAN MAITY - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

06
02.05.2024

For the Applicant : Mr. M.N. Roy,
Learned Advocate.
For the State Respondents : Mr. S. Ghosh,
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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

Copy of the rejoinder has been served upon Mr. Ghosh, learned counsel for the respondent authority. Mr. Ghosh prays for time to examine this.

Manoranjan Maity, a WBCS (Executive) Officer had died while rendering service on 09.12.1994. At the time of death of the employee, the applicant was a minor of 15 years. On attaining the age of appointment, he submitted an application for compassionate employment before the Collector, Medinipur on 25.11.1997. In terms of a direction of the Hon'ble High Court in W.P.S.T. 06 of 2022, the respondent authority passed the reasoned order rejecting the prayer of the applicant on the following grounds :-

"...(i) the date of birth of the applicant is 14.12.1979 and on the date of submission of the application in plain paper, the applicant was below 18 years of age;

(ii) as per clause 14(a) of Notification No. 251-Emp, dated 03.12.2013, application submitted more than two years after death/incapacitation prior to issue of Notification No. 30-Emp dated 02.04.2008 will not be entertained

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and in the instance case the application in plain paper appears to have been submitted on 25.11.1997 which is prior to issue of Notification No. 30-Emp dated 02.04.2008;

(iii) moreover, if the application in plain paper dated 25.11.1997, submitted by the applicant be counted as his first application, the same was submitted more than two years after the death of the deceased Government employee Late Mano Ranjan Maity, who died on 09.12.1994;

(iv) as per Clause 14(c) of the said Notification dated 03.12.2013, Compassionate appointment in any case would not be a matter of right but it will be subject to fulfilment of all conditions, enquiries, availability of vacancy at the appropriate level etc;..... ”.

It is not in dispute that the applicant was a minor at the time of death of his father. Mr. Roy submits that instead of considering the application under 10(a) of 26-Emp, his application should have been considered under 10(aa) of the same Notification. 10(aa) allows delayed filing of application upto five years, provided no one in the family was eligible for such employment at the time of death of the employee. Mr. Roy argues that at the time of death, none in the family was eligible for such employment. Therefore, considering this particular clause, the applicant should have been given five years relaxation in submitting such an application for compassionate employment.

Let submissions of the learned counsels be heard under the heading “Hearing” on 29.8.2024.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skg.

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