

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Member (A)

Case No. – OA 796 of 2021

Suprodip Das -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M. Bhattacharyya, Learned Advocate.
Mr. N.C. Dey, Learned Advocate.
For the State respondent : Mr. A.K. Das Sinha, Learned Advocate.

06
14.11.2022

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

In this case, after the death of the deceased employee while in service, the applicant Suprodip Das had applied for compassionate employment. The said application was considered and rejected by the respondent on the ground that the deceased employee, Late Rajesh Das was not a regular employee. The compassionate employment, as per the reasoned order, is not entitled for family of the deceased employees who were not appointed on regular basis.

Submission of Mr. Bhattacharyya while challenging the considered order is that the deceased employee was a regular employee appointed against a vacancy as a Roller-Cleaner and thus appointed formally vide order dated 12.10.1998.

To substantiate the claim that the deceased employee was a regular employee, Mr. Bhattacharyya also refers to an order of the respondent dated 13.08.2018 which allowed Career Advancement Scheme (CAS) after completion of 16 (sixteen) of service to the deceased employee.

Moreover, the copy of the family pension is also presented as a proof of the deceased employee being a regular employee. In the pension paper, mention is made of the deceased employee being a “government employee.”

Mr. Bhattacharyya further submits that the very fact that the deceased employee, Rajesh Das was appointed to perform 2 (two) election duties during his service proves that he was a regular employee.

The family pension document also mentions Pay Band of the deceased employee. Mr. Bhattacharyya submits that these above documents sufficiently make it clear that the deceased employee, Rajesh Das served as a regular government employee and therefore, his legal heir, the applicant is entitled for compassionate employment under compassionate employment scheme.

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Mr. Das Sinha while supporting the decision of the respondent in rejecting the application, refers to the reply of the State respondent. The reply of the respondent primarily is based on the fact that the compassionate employment is not entitled for the applicant because the father was not appointed on regular basis. The deceased employee was a work charged employee and thus his legal heirs is not eligible for compassionate employment under existing government rules. Mr. Das Sinha refers to para 3(f) of Notification No. 251-EMP of Labour Department which is quoted as under:

“3(f)“Government employee” for the purpose of this scheme means a Government employee appointed on regular basis and not the one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis”

Mr. Das Sinha also submits that this issue was comprehensively covered and decided by the Tribunal in OA 552 of 2017 in Biswajit Debnath and others relating to compassionate employment for work charged employees and Mr. Das Sinha also states that no appeal has been preferred against the above order of the Tribunal. Therefore, the previous Tribunal's order as quoted above should prevail.

In response to learned counsel for the State on the above comment, Mr. Bhattacharyya prays for time so that during the next hearing he will submit relevant Judgements/Orders of Hon'ble Apex/High Court.

Let the date 2nd February, 2023 be fixed for further hearing.

CSM

**SAYEED AHMED BABA
MEMBER (A)**