

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 841 OF 2023

JIT BAHADUR THAPA - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and

Date of order

For the Applicant : Mr. N. Ahmed
Advocate

03

16.05.2024

For the State respondents : Mr. Goutam Pathak Banerjee
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.

By filing this application, the applicant has prayed for setting aside the impugned reference No. 53 dated 28.02.2023. By this impugned reference, the respondent authority declined to accept the prayer of the applicant for employment on compassionate ground.

Late Ratna Maya Magarni, a Guard on regular service under the Executive Engineer, PWD, Kolkata North Health Division died on 21.06.2020. On 07.12.2020 the applicant furnished a plain paper representation before the Executive Engineer, Kolkata North Health Division praying for an employment under compassionate ground. This plain paper application was later followed by submission of the proforma application on 12.07.2022. Both the applications submitted by the applicant were received and acknowledged duly by the office of Executive Engineer, Kolkata North Health Division. However, the reasoned order failed to mention such important fact. Even if the plain paper application is not considered as a valid application, the prescribed proforma application was submitted on 12.07.2022, 2 years and 21 days

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from the date of death of the employee. As per Notification 10 (a) of Emp-251, two years period is allowed for such submission and by taking shelter in this Notification, therefore, only a delay of 21 days had occurred.

Having heard the submissions of the learned counsels and considering the facts and circumstances of the case, the Tribunal is inclined to express that the 21 days delay is not a substantial delay and should have been ignored by the respondent authorities. The respondent authorities should also be fully aware that it is more important to understand the spirit of the scheme. The very word “compassion” means that the Government is willing to extend a helping hand to the family of the deceased employee, at such a time when the breadwinner has left the family, leaving it under serious financial distress. It is, therefore, important for the respondents to dwell upon this fact and examine whether the family of the deceased employee has been facing financial difficulties and is in need of support in the form of an employment. It is not an appreciable action to stick to mere technicalities. The concept of compassionate appointment is a need-based appointment and it is the responsibility of the respondent authorities to see if the family was facing financial and economic difficulties. In this case, it is to be seen whether the death of the employee had thrown the family in serious financial disarray. It is an admitted fact that there was a delay of mere 21 days in submitting the proforma application, even if the fact of submission of plain paper application is to be ignored; mere rejection on the ground of delay of 21 days is not a stately act on part of the respondent authorities.

Therefore, in view of the foregoing observations, the Tribunal finds the impugned reasoned order passed by the Joint Secretary dated

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28.02.2023 untenable and worthy of quashing. Therefore, it is quashed and set aside with a direction to the respondent No. 2, Secretary, Department of Public Works Department to reconsider the prayer of the applicant leniently and pass a reasoned order in the light of the observations of this Tribunal in the foregoing paragraphs. Such re-considered reasoned order be passed within 3 months from the date of communication of this order and communicate a copy of the order to the applicant within 2 weeks thereof.

Accordingly, the application is disposed of.

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

BLR/SCN.