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| Serial No. andDate of order. 1 | Order of the Tribunal with signature2 | Office action with date and dated signature of parties when necessary3 |
|  *10* *21.02.2018**H.S* | For the Applicant : Mr. Supriyo Ranjan Ghosh, Ld. Advocate.For the Respondents : Mr. G.P. Banerjee, Mr. D. Koley, Ld. Advocates. Liberty is given to the applicant to incorporate the correct designation of the respondent no. 1 by way of amendment of cause title of the original application in course of this day. The applicant has filed this original application Under Section 19 of the Administration Tribunals Act, 1985 praying for direction upon the respondents to give appointment to the applicant on compassionate ground. One Netai Chandra Biswas, father of the applicant died on August 24, 2012 while he was working as Mechanic in RWS Howrah Sub-Division under the Department of Public Health Engineering, Government of West Bengal. On August 27, 2012 the applicant submitted application for compassionate appointment on the ground of pre-mature death of his father on whom the applicant was dependent. The application for compassionate appointment was processed by the Department and the same was rejected. The fact of the rejection of application for compassionate appointment of the applicant was communicated by the OSD & Ex-Officio Special Secretary, Department of Public Health Engineering, Government of West Bengal to the respondent no. 2, Chief Engineer (PL&WQM), Directorate of Public Health Engineering under Letter No. PHE/Estt/592/2E-16/17 dated March 20, 2017. It appears from the said letter dated March 20, 2017 that the applicant was not given compassionate appointment as he was 27 (twenty seven) years of age at the time of death of his father. It further appears from the said letter dated March 20, 2017 that the applicant cannot be considered as dependent of the deceased employee as he exceeded 25 (twenty five) years of age on the date of death of his father. So, the applicant was not given compassionate appointment as he exceeded 25 (twenty five) years of age on the date of death of his father. The authority concerned considered the application for compassionate appointment on the basis of Labour Department Notification No. 251- EMP dated December 03, 2013 and Notification No. 30-EMp dated April 02, 2008. Learned Counsel appearing on behalf of the applicant submits that the father of the applicant died in the year 2012 and the applicant submitted application for compassionate appointment in the year 2012 and as such the Notification issued by the Labour Department in the year 2013 cannot be taken into consideration for deciding the fate of compassionate appointment of the applicant. We fully agree with the submission made on behalf of the applicant and hold that the case of the applicant for compassionate appointment should have been considered on the basis of Notification No. 114-EMP dated August 14, 2008 and Notification No. 30- EMP dated April 02, 2008 issued by the Labour Department, Government of West Bengal, as those Notifications were in force on the date of death of the father of the applicant and on the date of submission1 for application by the applicant for compassionate appointment. The Notification No. 30-EMP dated April 02, 2008 issued by the Labour Department, Government of West Bengal has categorically enumerated who are dependents of a government employee for the purpose of appointment of compassionate ground. It is relevant to quote paragraph 2 (ii) of the said Notification No. 30-EMP dated April 02, 2008, which is as follows :- “ *2 (ii) for the purpose of appointment on compassionate ground, a dependant of a Government employee shall mean wife/husband/son/un-married daughter of the employee, who is/was solely dependent on the Government employee.”* On perusal of the above paragraph of Labour Department Notification No. 30-EMP dated April 02, 2008, we do not find any age bar for consideration of dependent of a deceased Government employee for the purpose of appointment on compassionate ground. The norms adopted for refusal of appointment to the applicant on compassionate ground for exceeding 25 (twenty five) years of age on the date of death of his father are beyond the ambit of Notification dated April 2, 2008 of the Labour Department by which the applicant is governed. In our view the age bar of the applicant should not have been taken into consideration by the department for refusal of prayer for compassionate appointment, particularly when the age of the applicant is within eligibility criteria of age for recruitment to Group-D posts of the Government of West Bengal.  In view of our above findings, we quash the decision of refusal to give compassionate appointment to the applicant as communicated by OSD & Ex-Officio Special Secretary, Government of West Bengal to the Chief Engineer (PL&WQM), Public Health Engineering Directorate on March 20, 2017. The respondent No. 1, Additional Chief Secretary, Department of Public Health Engineering, Government of West Bengal is directed to re-consider the case of the applicant for compassionate appointment on the basis of Notification No. 114-EMP dated August 14, 2008 and Notification No. 30-EMp dated April 02, 2008 issued by the Labour Department, Government of West Bengal and on the basis of materials already available including reported of Three-Men Enquiry Committee within a period of 12 (twelve) weeks from the date of communication of this order.  With the above direction the original application stands disposed of. Let a plain copy of the order be supplied to both parties. **( S.K.DAS) ( R.K.BAG)**  **Member ( A) Member (J)**  | `1 |