

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

W.P.S.T.58 of 2025

Sahadat Hossain

Vs.

The State of West Bengal &Ors.

For the Petitioner : Mr. M. A. Sardar,
Mr. Siraj Haque,
Mr. M. Das

Heard on : 29th July, 2025

Judgment on : 1st August, 2025

Supratim Bhattacharya, J.:

1. Heard the learned counsel for the petitioner and the learned counsel for the State.
2. The present writ petition has been preferred assailing the order passed by the West Bengal Administrative Tribunal (hereinafter referred to as the 'Tribunal') in O.A. No. 644 of 2022 dated 10.01.2025.
3. Through the impugned order the Tribunal has not found any arbitrary action or illegality in the decision taken by the competent authority in the Memo. No. 374 dated 04.06.2018 and has, thus, disposed of the Original Application by passing the following :

“Having heard the submissions of the learned counsels and considering the fact and circumstances of this case, the Tribunal is of the clear opinion that being a minor boy of only three (03) years at the time of death of his father, the applicant had not attained his age of employment. The rules governing the Scheme is clear that a legal heir of the deceased employee applying for such an employment has to be eligible in respect of all the criteria's. The Scheme allows maximum time limit of two (02) years from the date of death of the employee to apply in the prescribed format. It is not in dispute that the applicant being only three (03) years old at the time of death of his father would have attained the age of only five (05) years after the two(02) years time allowed for such an application. It is also not relevant that the mother had applied on behalf of the minor son, the present applicant. The very spirit of the Scheme is to provide an immediate relief to the family. The Scheme does not vest any right to the family members allowing them such employment even when the applicant is a minor.

Therefore the Tribunal does not find any arbitrary action or illegality in the decision taken by the competent authority in his Memo. 374 Dated 04.06.2018. Therefore, the application devoid of any merit is disposed of without passing any order.”

4. The fact of the present lis is that one Jarjish Ali who had been serving as a constable in the police department in Nadia District expired on 04.03.1998. At the time of his death, the applicant/petitioner was a minor aged about three (3) years as such his mother preferred an application in plain paper on 02.12.1998 praying for appointment of her son i.e. the petitioner herein, which was received by the office of the Police department at Krishnanagar in Nadia on 04.06.1999.

5. It also transpires that the applicant/petitioner himself presented an application in a plain paper seeking appointment, after attaining the age of employment, on 28.01.2014, sixteen years after his father's demise which was followed by an application in the prescribed proforma.
6. The said application was considered by the competent authority i.e. the Department of Home and Hill Affairs and was ultimately regretted. The decision of the Department of Home and Hill Affairs was communicated to the petitioner by the Superintendent of Police, Nadia by a memorandum being No. 374 dated 04.06.2018.
7. Being aggrieved by and dissatisfied with the said order of rejection, the petitioner preferred the Original Application being O.A. No. 644 of 2022 wherein the impugned order has been passed by the Tribunal.
8. The learned counsel representing the petitioner has submitted that the applicant had appeared in the written examination and interview held by the office of the Superintendent of Police on 04.09.2014 and has been successful but the respondent authority rejected his application as per the Notification No. 251-Emp dated 03.12.2013. The said decision of the authority is an arbitrary and unfair one as such the petitioner has been compelled to initiate the present case.
9. So from the record and the submission of the learned counsel representing the petitioner/applicant, the moot point which crops up is that whether the petitioner is entitled to appointment on compassionate ground.

10. On perusal of the Notification No.251-Emp dated 03.12.2013, it transpires that the said Notification refers to the conditions for compassionate appointment to a dependant family member of a Government employee who dies in harness. The monthly income of the family shall have to be below 90% of the gross monthly salary of the employee before death or premature retirement. In this case, it is the death of the employee.
11. From the Notification No.26-Emp dated 01.03.2016, it transpires that the family of the deceased shall have to be in need of financial assistance and the same is absolutely necessary to support the family and the application is to be submitted within two years from the date of death.
12. From the aforementioned Notification being No.26-Emp, it is also apparent that in exceptional circumstances only, extension of period upto five (5) years is allowed. Extracts of the said notification for employment is laid hereunder:

“GOVERNMENT OF WEST BENGAL

LABOUR DEPARTMENT

EMPLOYMENT CELL

New Secretariat Buildings (12th Floor),

1, K. S. Roy Road, Kolkata – 700001

No. 26-Emp. Dated 01/03/2016

NOTIFICATION

A comprehensive scheme regarding appointment on compassionate ground was notified vide this Deptt. Notification No. 251-Emp dated 03.12.13 subsequently amended vide Notification Nos. 323-Emp. Dated 23.07.2014, 96-Emp. dated 28.04.2015, 165-Emp. dated 04.06.2015 and 278-Emp. dated 23.09.2015. Several

Departments under Govt. of West Bengal are reportedly facing difficulties in implementing certain provisions contained in the Notifications as aforesaid. The matter has been under active consideration of the Government for some time past. The Governor is pleased to bring about the following changes in the existing guidelines to dispose of the cases in a just and equitable manner:

.....

Existing Clause/Para No.	Existing provision	Revised provision
10(a) of [New clause] added to Notification No. 251-Emp dt. 3.12.13		BELATED REQUESTS:- In exceptional cases such as (i) death during action (ii) where none in family is eligible etc., departments consider requests for compassionate appointment even where the death or retirement on medical grounds of a Govt. servant took place upto five years ago. While considering such belated request the 3 member screening-cum-enquiry committee should, however, keep in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Govt. Servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases could call for a great deal of circumspection at all levels. The dependent member must invariably attain the minimum age of appointment at the time of consideration.

.....”

From the contentions, it transpires that at the time of death of the father of the petitioner, he was aged about three (3) years so if special circumstance of five (5) years of extended period was allowed then also

the petitioner would not have attended the age of eligibility for government service.

13. No case is made out by the applicant as to the fact that the wife of the employee was ineligible for appointment at that relevant point of time so as to give effect to the provisions laid down under the Notification No. 26-Emp dated 01.03.2016.
14. Considering the aforesaid circumstance, the petitioner is not in a position to be considered to have the benefit of the said special circumstance also as laid down under the said Notification No. 26-Emp dated 01.03.2016.
15. Having considered the aforementioned circumstances, this Court is of the opinion that the impugned order dated 10.01.2025 passed by the Tribunal in O.A. No. 644 of 2022 requires no interference.
16. Thus the Writ Petition being **W.P.S.T. No. 58 of 2025** is dismissed.
17. There will be no order as to costs.
18. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree.

(Supratim Bhattacharya, J.)

(Madhuresh Prasad, J.)