

15.07.2025
(D/L-109)
Ct. No.4
(B.K.N.)

W.P.S.T. 59 of 2025

**Tapasi Mandal & Another
Vs.
The State of West Bengal & Others**

Mr. Biswarup Mukherjee,
Ms. Dolon Dasgupta,
Mr. Tanmoy Kar

...for the Petitioners

Ms. Sonal Sinha,
Ms. Ashmita Chakraborty

...for the State

1. Heard learned counsel for the petitioner and the learned counsel for the State.
2. The father of the petitioner died in harness serving the police force as a constable. His date of death is 19.10.2015. The Petitioner's mother made an application on 08.03.2016 seeking a benefit of compassionate appointment in respect of her elder son. The son's claim was pending before the authorities for nearly two years when he unfortunately passed away on 05.05.2018. Immediately thereafter the mother made an application for the benefit of compassionate appointment in favour of the present petitioner/younger son of the deceased. The petitioner's claim for compassionate appointment was submitted on 14.06.2018. The same has been rejected by a communication dated 29.11.2019 issued

by the O.S.D & ex-Officio Joint Secretary to the Government of West Bengal in the Police Establishment Branch of the Home & Hill Affairs Department, Government of West Bengal. The relevant extract containing the reason for rejection of the petitioner's claim reads:

"It appears that the candidate was only 15 (fifteen) years 4 (four) days old on the date of death and he was not the only eligible dependent family member to apply. So the proposal does not fulfil required conditions as laid down in the Notification No. 251-Emp dated 03.12.2013 read with Notification No. 26-Emp dated 01.03.2016 of Labour Department, Government of West Bengal for being eligible to be **considered for appointment under exempted category.**

Accordingly, I am directed to state that the **Government regrets its inability to approve this case for appointment** under the exempted category in the light of the guideline contained in Notification No. 251-Emp dated 03.12.2013 of Labour Department read with subsequent amendments."

3. The petitioner assailed the rejection order before West Bengal Administrative Tribunal (S.A.T for short) by filing O.A. No. 33 of 2021. The Tribunal has not entertained the petitioner's challenge to the rejection order and has disposed of the petitioner's Original Application as being devoid of any merit.
4. The order of the S.A.T dated 29.01.2025 passed in O.A. 33 of 2021 is the subject matter of the present proceedings.
5. Before we proceed to deal with the matter on merits we consider it apposite to record that from a plain

reading of the notification/s issued on 03.12.2013 bearing no. 251-Emp and notification dated 01.03.2016 bearing no. 26-Emp a concept emerges that the compassionate appointment is given for benefit of the “family” and not the individual claiming the appointment on compassionate grounds. Since the notifications issued by the State manifests such intention it is expected that the claim of the applicants are also considered, processed; and a decision taken thereupon having regard to the intent of the notifications containing the policy of compassionate appointment, being for the benefit of the family of the employee who died in harness.

6. The facts lie in a very narrow compass and not in dispute that the application was initially made for the petitioner’s elder brother. It is not in dispute that the application was within time. The second application was made by the mother of the petitioner under a compelling and special circumstance being the sad demise of the first applicant (elder brother of the present petitioner).
7. Insofar as the objection of the respondents that the petitioner did not fulfil the minimum requisite age criteria for grant of compassionate appointment at the time of demise of the employee in harness, we are not willing to accept the same having regard to the special circumstances existing in the present case. The

special circumstance in the present case is the demise of the first applicant (elder brother of the present petitioner). Since his claim for appointment was made on time and was pending consideration for benefit of the family of the deceased we are of the opinion that the petitioner's claim is to be considered in terms of Clause 10(a) of the notification dated 01.03.2016. Clause 10(a) provides the "time lines" and reads as follows:

"TIMELINES :-

If the family of the deceased or the employee retired on being permanently incapacitated is in need of financial assistance and the same is absolutely necessary to support the family, application for employment is to be submitted within two years from the date of death or retirement on permanent incapacitation. If no application is submitted within the said period it will be presumed that the family does not require any financial assistance."

8. A reading of this Clause makes it clear that the same requires an application to be submitted within the stipulated time and only *"if no application is submitted within this period it will be presumed that the family does not require any financial assistance"*. It is nobody's case in the present issue that no application was submitted within the stipulated time. An application was submitted within the stipulated time, but unfortunately became infructuous in view of the demise of the petitioner's elder brother (applicant), who was claiming to be appointed on compassionate appointment for the benefit of the family. We are,

therefore, of the considered opinion that this is not a case where no application was made on time so as to invite the presumption under Clause 10(a) that the family does not require any financial assistance.

9. In our opinion the present case is covered by Clause 10(aa) of this notification dated 01.03.2016 which reads:

“BELATED REQUESTS :-

In exceptional cases such as (i) death during action (ii) where none in family is eligible etc., departments can 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.”

10. A plain reading of this provision makes it clear that the object of the scheme is to give financial assistance to the “family” of the Government servant in order to relieve them of the economic distress or penury being suffered on account of sudden loss of the bread earner. It is under such circumstance that this provision contains a stipulation that the request for compassionate appointment can be considered even

in a circumstance where the death of the Government servant took place up to “five years ago”.

11. From a bare perusal of the order rejecting the petitioner’s claim it appears that consideration under 10(aa) has not been accorded to the petitioner. The petitioner’s claim has been rejected by assigning a reason that he did not fulfil the minimum age requisite criteria for the purposes of appointment on compassionate ground, as he was only 15 years 4 months and 4 days old. Under such circumstances if the petitioner, considering the exceptional circumstance of his elder brother/first applicant’s demise, is allowed about 3 years 10 months time for making an application then within such time he would have attained 18 years of age and eligible for consideration for compassionate appointment.

12. Clause 10 (aa) provides that in such exceptional cases time may be granted upto 5 years for making application for compassionate appointment. The respondents themselves have considered it appropriate to provide such a time limit of upto 5 years having regard to the fact that the benefit in question is for the family of the deceased Government employee and not the individual applicant alone. Having regard to the beneficial object underlying the scheme of compassionate appointment such provision has been prescribed to deal with exceptional cases,

like the present one. Even though the petitioner was entitled to consideration under Clause 10(aa) of the notification dated 01.03.2016, such consideration has not been made in respect of the petitioner's claim.

13. This aspect is further clarified on a plain reading of Clause 14(bb) of this notification which clearly stipulates that even in case a death has occurred prior to issuance of this order (01.03.2016) and had remained undisposed, the same could be looked into afresh if it complies with the revised instructions. Having regard to a reading of these three provisions the objection raised by the authorities regarding the petitioner not fulfilling the minimum age requisite qualification at the time of demise of his father appears to be opposed to the Clause 10(aa) of the notification dated 01.03.2016, and devoid of any merit whatsoever.

14. These above three provisions of the notification dated 01.03.2016 are required to be considered in harmony and in such a way so as to further the beneficial intent of the scheme, meant to provide succour to a family of the Government servant left in penury on account of loss of the bread earner. The authorities thus ought to have considered the petitioner's application without raising any such objection, more so in view of the fact that the Office of the Joint Commissioner of Police, Headquarters, Kolkata on

10.07.2019 had considered the case of the present applicant and forwarded a positive recommendation in the following terms to the Assistant Secretary, Government of West Bengal, Home & Hill Affairs Department.

“Const.-13955 Nitai Chandra Mondal of TP, Kolkata, **died on 19.10.2015** while in service. The date of birth of the deceased employee is 03.05.1965. The deceased employee joined the Govt. service on 21.07.1994. Total length of service of the deceased employee at the time of death is 21 years 02 months 28 days and age was 50 years 05 months 16 days.

Jyoti Mandal S/o deceased Const.13955 Nitai Chandra Mondal of TP, Kolkata, has applied for appointment to the post of Constable/ Sepoy in prescribed proforma on compassionate ground under exempted category in Kolkata Police. The **Screening-cum-enquiry committee**, on enquiry about the genuineness of the prayer as well as financial condition of the family of the deceased employee, submitted a report that the family of the deceased may be considered as they are in need of immediate financial assistance and satisfied the conditions as per Para 10(d) & (e) of Labour Deptt.’s Notification No. 251 Emp. dated 03.12.2013 in respect of Jyoti Mandal who is found eligible for employment for the post of Constable/ Sepoy Under Exempted Category as per provision of Labour Deptt.’s Notification No.251 Emp. dated 03.12.2013 read with 26 Emp. dated 01.03.2016.

In view of the above, it is **certified** that the proposal of Jyoti Mandal S/o Lt. Nitai Chandra Mondal for the post of Constable/ Sepoy has duly been **examined** in the light of the comprehensive policy on the compassionate Appointment 2013 and his case is found to be satisfactory in all respects and as such recommending his appointment in the post of Constable/ Sepoy in Kolkata Police.”

15. We, therefore, direct the respondent no. 2 to consider the petitioner’s claim in light of this recommendation, without raising an objection as contained in the

impugned letter dated 29.11.2019; and to take a decision and communicate the same by a reasoned and speaking order to the petitioners within a period of three months from the date of receipt/production of this order.

16. The writ petition stands allowed in these terms.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)