

W.P.S.T. 83 of 2025

**Samaresh Chowdhury
Vs.
The State of West Bengal & Ors.**

Mr. Anshunath Chakraborty,
Mr. Sailendranath Chakraborty
...for the Petitioner

Ms. Sonal Sinha,
Ms. Ashmita Chakraborty
...for the State

1. The petitioner claimed compassionate appointment in view of demise of his father in-harness. Considering the fact that an application was made by petitioner's mother, for his compassionate appointment at the time when he was aged about 7 years 9 months and 14 days the authorities have rejected the claim. The Tribunal also has refused to entertain the petitioner's challenge to the rejection order dated 14.10.2022. The Tribunal has also refused to entertain the petitioner's OA No. 499 of 2023, which has been rejected by the West Bengal Administrative Tribunal (S.A.T.) by an order dated 19.02.2025, which is the subject matter of the present writ proceedings.
2. Heard the learned counsel for the petitioner and the learned State counsel.
3. The petitioner's father died in harness on 06.04.2010, serving the police force. An

application was made seeking benefit of compassionate appointment in favour of the petitioner by wife of the deceased, mother of the present petitioner. The claim has been rejected by a communication dated 14.10.2022 on the ground that at the time of demise of his father, the petitioner was 7 years 9 months and 14 days. The petitioner's claim has been considered with reference to a Notification dated 03.12.2013.

4. The learned counsel for the petitioner submits that the West Bengal Administrative Tribunal (hereinafter referred to as the 'S.A.T.') has failed to consider the petitioner's claim. The death having occurred in the year 2010, the petitioner's claim was to be considered in terms of a Notification No. **30-Emp.** dated 02.04.2008 issued by the Labour Department, Government of West Bengal. He submits that in the said Notification, there is no prescription of a minimum age for being considered for benefit of compassionate appointment. According to the learned counsel for the petitioner irrespective of the age of the dependant, an application if made within six months by the dependant, then as per Notification No.30-Emp., the dependant was to be offered the compassionate appointment on attaining the age of majority.

5. We cannot countenance such a situation. By now it is settled as a legal proposition that the purpose of compassionate appointment is to provide immediate relief to the family facing financial distress, to overcome the situation arising therefrom, as a result of the sudden loss of the bread winner. It has been held repeatedly by the Apex Court, and more recently in the case of ***State of West Bengal vs. Debabrata Tiwari and Others*** reported in **(2025) 5 SCC 712** that appointment on compassionate ground is not a source of recruitment, and nor is it a vested right which can be exercised at any time in future. The Apex Court has laid down the law that the benefit is to be provided immediately to redeem the family in distress.
6. Insofar as the submission of the learned Counsel for the petitioner that **30-Emp.** does not specify a minimum age criteria, we are also not inclined to accept such a submission, for the reasons that the benefit of compassionate appointment being an exception to the general rule for appointment is to be availed or granted based on a strict interpretation of the rules/ circular under which the benefit is claimed. The 30-Emp relied upon by the writ petitioner does not contain any specific clause relaxing, the otherwise minimum age

criteria (18 years) for employment under the Government.

7. On the contrary **30-Emp.** dated 02.04.2008 being relied upon by the petitioner's learned Advocate, contemplates:

“provided that in the case of appointment of a dependant of a Government employee who retires prematurely on being declared permanently incapacitated all other conditions laid down in para A-2 of Labour Department Notification No. 303-Emp/1M-10/2000, dated 21-08-2002 shall have to be fulfilled.”

8. Since 30-Emp. contemplates compliance with conditions laid down in Notification No.303-Emp, dated 21.08.2002, we proceeded to consider the same, and found that the same prescribes :

“...subject to the condition that the candidate satisfies the qualification and other requirements prescribed for recruitment to the post...”

9. It further contemplates providing of employment to the dependant of employee who dies-in-harness

“... subject to observance of relevant conditions and formalities...”

10. Thus seen the intention of **30-Emp** is clear. The same is required to be read with the provisions contained in **303-Emp.** Viewed thus, it is an inescapable conclusion that a candidate is required to satisfy the qualification and other

requirements prescribed for recruitment; and that recruitment on compassionate grounds is subject to observance of relevant conditions and formalities, which undoubtedly would include the minimum age criteria (18 years) prescribed for general recruitment in the State Government.

11. There being no relaxation granted with regard to the minimum age criteria under the **30-Emp**, it does not lie in the mouth of the writ petitioner to contend that the same be relaxed in his favour.
12. Even otherwise we are faced with a question whether a minor can be permitted to enter into a service contract. In absence of any such stipulation in the rule/circular under which the benefit is claimed, the answer to this question has to be in the negative.
13. In the present case the writ petitioner was 7 years 9 months and 14 days old when an application was made on his behalf by his mother, within 6 months of the date of death of his father in-harness.
14. In view of consideration as above based on provisions contained in **30-Emp** read with **303-Emp**. the claim of the petitioner to be offered appointment on attaining majority, about 10 years after death of the father in harness, even though he was a minor, aged about 7 years 9 months and 14 days, is clearly unsustainable.

15. It is also worth taking into consideration a fact that even though no case has been made out that the mother was ineligible for compassionate appointment, she has not applied for herself; but applied for the minor son (petitioner).
16. In the circumstances, we do not find any infirmity in the rejection of the petitioner's claim by the authorities by letter dated 14.10.2022.
17. The order dated 19.02.2025 passed by the S.A.T. in O.A. No. 499 of 2023, therefore requires no interference in exercise of judicial review under Article 226 of the Constitution of India, the same having not occasioned any injustice or miscarriage of justice.
18. The Writ Petition being **W.P.S.T. No. 83 of 2025** is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)