

17th November, 2025
(D/L No.15)
Ct. No.4
(SKB)

W.P.S.T.123 of 2025

The State of West Bengal and others
Versus
Dipankar Dhara

Mr. Swapan Banerjee,
Mr. Diptendu Narayan Banerjee
... for petitioners.

Mr. Soumya Banerjee,
Ms. Sucheta Banerjee
... for the respondent.

1. The State is petitioners before us. The West Bengal Administrative Tribunal (in short 'Tribunal') by its order dated 29.01.2025 passed in O.A.830 of 2022 has directed the Principal Secretary, Department of Public Health Engineering to issue an appointment letter to the applicant/respondent, if he is otherwise eligible, within a period of four months from the date of communication of the order.
2. Being aggrieved by the order of the Tribunal, the learned counsel for the State submitted that the applicant/respondent has procrastinated in the matter of his claim relating to compassionate appointment arising out of the death of his father on 24.04.2009. To begin with proforma

application, was submitted belatedly. The petitioner thereafter also invoked the jurisdiction of the Tribunal for asserting his claim belatedly. The Tribunal by an order dated 18.11.2016 passed in O.A. No.836 of 2016 directed the Principal Secretary, Public Health Engineering Department to consider the claim after offering an opportunity of hearing to the applicant/respondent on the claim of compassionate appointment, within a certain period of time.

3. In compliance with the direction passed in O.A.836 of 2016, an order was passed by the Additional Chief Secretary, Public Health Engineering Department, rejecting the applicant/respondent's claim for grant of compassionate appointment. Order was communicated to the respondent by a letter dated 03.03.2017.
4. The rejection of the respondent's claim for compassionate appointment has been assailed by filing an O.A.830 of 2022, after five years of rejection of his claim and about 13 years after the death of his father in harness.
5. The learned counsel for the State submits that the Tribunal's order dated 29.01.2025 is

unsustainable as the order has been passed on a belated claim regarding compassionate appointment without condoning the delay of about five years in raising the claim.

6. We could not find any application for condonation being filed and, therefore, earlier adjourned the writ petition to enable the respondent/applicant to place on record whether the condonation application was filed and, if so, whether the delay was condoned.
7. A short affidavit has been filed on behalf of the respondent/applicant wherein it is mentioned that an application under Section 5 (MA 47 of 2024) of the Limitation Act for condoning the delay of 1924 days was filed before the Tribunal in the Original Application. The application was taken up on 06.01.2025 by the Tribunal and after hearing the entire matter including the O.A.830 of 2022, the Tribunal reserved the order.
8. A final order was passed by the Tribunal on 29.01.2025. A positive direction has been issued thereby as noted above.
9. From perusal of the order passed by the Tribunal, we find that there is no consideration of the application for condonation (MA 47 of

2024). We find that the Tribunal has not considered the application for condonation of delay. Without condoning the delay, the O.A. has been allowed and a positive direction has been passed. The order of the Tribunal, therefore, is clearly unsustainable. We, therefore, remand the matter to the Tribunal for passing a fresh order after considering the miscellaneous application filed by the applicant/respondent.

10. To facilitate consideration afresh, we set aside the order dated 21.09.2025 passed in O.A.830 of 2022.

11. The writ petition stands allowed accordingly.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)