

W.P.S.T. 147 of 2024

**Akash Ranjan Ray
Vs.
The State of West Bengal & Ors.**

Mr. Susanta Pal,
Mr. Amit Roy

...the Petitioner

Ms. Chandreyi Alam, Id. A.G.P.,
Ms. Kakali Dutta

...the State

1. Heard the learned advocates representing the parties.
2. The present writ petitioner was the applicant before the West Bengal Administrative Tribunal ('Tribunal' for short) raising an issue regarding denial of compassionate appointment. The Tribunal rejected the Original Application bearing O.A. No. 773 of 2022 by an order dated 04.04.2024. The order of the Tribunal is put to challenge in the present proceeding.
3. The facts which are not in dispute and form the basis of the dispute, is death in harness of the petitioner's father, a member of the police force, on 29.03.2009 while on duty.
4. A claim was raised by the present petitioner's mother for grant of compassionate appointment to the petitioner, immediately after demise of his father i.e. on 02.04.2009. The petitioner's mother reiterated and reminded the authorities regarding the claim from time to time.

5. The present petitioner, whose date of birth is 30.08.1995, attained majority in the month of August, 2013. After the petitioner attained majority, his claim was referred to the Three Men Screening cum Enquiry Committee, which submitted its recommendation dated 27.06.2018, recommending the petitioner for employment to the post of L.D.C. on compassionate ground under belated request Clause 10(aa) of 26-Emp. dated 01.03.2016, issued by the Labour Department, Government of West Bengal.
6. The claim was finally rejected by a letter dated 24.08.2022, issued by the Senior Special Secretary to the Government of West Bengal in the Home & Hill Affairs Department.
7. The petitioner assailed the rejection before the Tribunal, which has rejected the claim by assigning presumptuous reasons that the mother of the applicant may have been eligible for such employment, but she chose not to apply, and rather waited till her son attained the age of employment.
8. The petitioner has assailed the Tribunal's order. It is submitted that in view of the provisions contained in 26-Emp., since the petitioner's claim was pending on the date of coming into force of 26-Emp., the same was required to be considered under 26-Emp. dated 01.03.2016. In this

connection, his submission is supported by an earlier decision of the Co-ordinate Bench in the case of ***Himadri Chowdhury Versus State of West Bengal & Ors.*** passed in ***W.P.S.T. 180 of 2024***. The Judgement is dated 24.10.2025.

9. It is further submitted that the reason assigned for rejection in the communication of the Senior Special Secretary dated 24.08.2022, is unsustainable. The finding of the Department that the petitioner's claim does not fulfil Clause 10(aa) of the Notification No. 26-Emp., is in fact unsustainable.
10. The learned A.G.P. on the other hand has tried to support the communication dated 24.08.2022, issued by the Senior Special Secretary by submitting that the authority has recorded findings, founded on two fold grounds; one – that the petitioner was not entitled to any benefit under Clause 10(aa) meant for “*BELATED REQUEST*”; and the second - that the application was not submitted on the prescribed proforma within the five (05) years stipulated in 26-Emp. dated 01.03.2016. The findings are borne from the records and show consideration by the authority. The Tribunal, therefore, has rightly refused to interfere with the findings.
11. We have considered the rival submissions.

12. The petitioner's claim for compassionate appointment was considered by the Three Men Screening cum Enquiry Committee, much after coming into force of the 26-Emp. dated 01.03.2016. Therefore, the fact that the petitioner's claim was required to be considered as an '*undisposed case*' under the new Clause 14(bb) of 26-Emp. dated 01.03.2016, is apparent from a plain reading of the provision. Similar view was taken by the Co-ordinate Bench in the case of ***Himadri Chowdhury*** (*supra*).
13. Since the claim was required to be considered under 26-Emp., Clause 10 (aa) of the Notification No. 26-Emp., which deals with belated requests is applicable and therefore, petitioner's claim was required to be considered under this Clause also.
14. We consider it apposite to reproduce the revised provision contained in 26-Emp., which reads:

"10(aa)

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.”

15. A plain reading of the provision reveals the object and scope of the provision, which specifies that in an exceptional case, the application for compassionate appointment can be considered, even if, the death of the Government servant has occurred up to five (05) years ago.
16. In the present case, there is no dispute that the application was submitted by the mother, immediately after demise of the petitioner's father. There is also no dispute that the petitioner also submitted an application within five (05) years from the date of demise of his father. The application, however, was not made on the prescribed proforma.
17. Thus, being the facts since the application was made within five (05) years, the petitioner's claim was required to be considered under Clause 10(aa), as it was a claim occasioned under exceptional circumstances, since the petitioner's father died while on duty. This fact is not in dispute as the report filed by the Senior Special

Secretary of the Home & Hill Affairs Department discloses that for such reason the family/petitioner was also paid a special compensation of ₹. 2 lakh.

18. The report of the Three Men Screening cum Enquiry Committee dated 27.06.2018, further reveals that at the time of demise of the petitioner's father, his mother was aged 52 years and his sibling (sister) and the petitioner himself were both minors and ineligible for compassionate appointment. Therefore, the irresistible conclusion is that the petitioner fulfilled the requisite conditions as an exceptional case for being extended the benefit of Clause 10(aa) regarding "*BELATED REQUESTS*".
19. The only issue which remains thereafter is the issue raised by the Senior Special Secretary in the order rejecting the petitioner's claim regarding application not being made on the prescribed proforma.
20. We are unimpressed by such submission also.
21. The issue whether a proforma application is mandatory or not has been considered by Co-ordinate Bench by a Judgement dated 23.02.2026, in the case of ***Mrinal Kanti Das Versus The Joint Secretary, Public Works Department (WB) & Ors.***, in ***W.P.S.T. 36 of 2025.***, referring to and relying upon earlier

decision of the Apex Court in the case of ***Shreejith L. Versus Deputy Director (Education) Kerala & Ors.*** reported in ***(2012) 7 SCC 248.***

22. The Co-ordinate Bench held that once an application is made within the requisite time, completion of the requisite formalities including submission of proforma was required to be followed up by the authorities under Clause 10(bb) of 26-Emp. by meeting and assisting the family of the deceased Government employee so as to ensure fulfilment of necessary formalities. The same having not done, rejection on the ground of non-submission of an application on proforma was held to be unsustainable.
23. The Court considered the object and scope of submission of a proforma application, wherein all the relevant parameters were required to be filled up by the applicant for facilitating a comprehensive consideration of the claim, which was subsequently submitted by the present petitioner. It is nobody's case that the authorities could not consider the petitioner's claim for want of any details. In fact perusal of the report of the Three Men Screening cum Enquiry Committee reveals that petitioner's claim was considered with reference to the relevant parameters.

24. Having considered the object and purpose, the Co-ordinate Bench held that the proforma application has significance at the time of consideration of the claim and does not have any relevance to the time frame for making an application. Judgement of the Co-ordinate Bench is binding on this Court and the petitioner's claim is required to be considered in view of the law and in compliance with the Judgement the Co-ordinate Bench in the case of **Mrinal Kanti Das** (*supra*).
25. We, therefore, find no scope for the authorities to raise an issue regarding non-submission of an application on the prescribed proforma.
26. We, therefore, find no substance in rejection of the petitioner's claim by the Senior Special Secretary by communication dated 24.08.2022. Affirmation of such rejection by an order of the Tribunal dated 04.04.2024 in O.A. No. 773 of 2022, is also unsustainable for the above-noted grounds.
27. We, therefore, quash the communication dated 24.08.2022, issued by the Senior Special Secretary to the Government of West Bengal in the Home & Hill Affairs Department bearing No.2403-PL/PB/2P-257/2018.
28. The respondents are directed to proceed in terms of the report of the Three Men Screening cum Enquiry Committee dated 27.06.2018 without raising an issue regarding non-submission/or

belated submission of proforma application, subject to fulfilment of other requisite conditions and formalities by the petitioner.

29. Let the respondent authorities take appropriate steps and conclude the consideration and grant the benefits due as a result of such consideration, within a period of eight (08) weeks from the date of receipt/production of a copy of this order.
30. In view of our consideration above, the order of the Tribunal dated 04.04.2024, passed in O.A. No.773 of 2022 is found to be unsustainable and is hereby set aside.
31. The Writ Petition is allowed in these terms.

(Madhuresh Prasad, J.)

(Biswaroop Chowdhury, J.)