

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

Present:

The Hon'ble **Justice Madhuresh Prasad**

And

The Hon'ble **Justice Prasenjit Biswas**

W.P.S.T. 167 of 2025

**Budhu Turi
Vs.
The State of West Bengal & Ors.**

For the Petitioner : **Mr. Pinaki Dhole,
Mr. Rabindra Kr. Pathak,
Ms. Srijita Noe.**

For the State : **Mr. Jahar Lal De, Id. AGP,
Mr. Sutanu Chakraborty.**

Heard on : **31.03.2026**

Delivered on : **31.03.2026**

Prasenjit Biswas, J:-

1. Heard the learned advocate for the writ petitioner and the learned A.G.P.
2. The father of the applicant, a government employee, unfortunately died in harness on 03.11.2015, leaving the family in financial distress. In order to mitigate such hardship, the petitioner promptly submitted an application on 02.03.2016 seeking appointment on compassionate ground. The competent authority, however, by communication dated 06.05.2016, returned the application for re-submission along with certain requisite documents. Complying with the said direction, the petitioner took necessary steps, including obtaining affidavits of consent from his mother and brother, thereby fulfilling all procedural requirements. Subsequently, the petitioner submitted the prescribed proforma application on 17.01.2018. Thereafter, the Executive Engineer constituted a Three-Man Committee to conduct an enquiry and submit a report regarding the petitioner's eligibility. The petitioner duly furnished all documents as sought for, including those requisitioned by the Joint Secretary, thereby demonstrating his continuous pursuit of the claim without any deliberate delay.
3. Despite such compliance, the petitioner's claim was rejected by the Joint Secretary, Public Works Department, by order dated 11.01.2023, solely on the ground that the proforma application had been submitted on 02.02.2018, i.e., beyond two years from the date of death of the employee,

rendering the claim untenable under the applicable scheme. Aggrieved thereby, the petitioner approached the West Bengal Administrative Tribunal by filing O.A. No. 515 of 2023. However, the Tribunal, by order dated 02.05.2024, dismissed the said application, upholding the rejection. The said order of the Tribunal is under challenge in the present appeal.

4. At the outset, learned advocate for the petitioner submits that the petitioner's father died in harness on 03.11.2015, and within a short span thereafter, the petitioner submitted an application on plain paper on 02.03.2016 seeking appointment on compassionate ground. It is contended that such application was made bona fide and within the permissible time, in accordance with the prevailing legal framework at the material point of time.
5. Elaborating further, it is submitted that on the date of demise of the petitioner's father, the provisions contained in Clause 10(a)(b) of the Notification dated 03.12.2013 bearing No. 251-Emp. stood substantially amended by virtue of Notification dated 23.09.2015 bearing No. 278-Emp. By the said amendment, a provision was introduced to the effect that an application submitted on plain paper within six months from the date of death/incapacitation of the government employee could be treated as a valid application, provided that the prescribed proforma application was submitted subsequently, but not later than one year from the date of death/incapacitation. The said amendment further cast a duty upon the administrative department to be satisfied that such plain paper

application had indeed been submitted within the stipulated period of six months.

- 6.** It is, however, pointed out that the aforesaid amendment had a short-lived operation and was deleted within a period of approximately five months by a subsequent Notification dated 01.03.2016 bearing No. 26-Emp. The deletion of the said amendment was contemporaneous with the revision of the requirement under Clause 10(a) of the earlier Notification No. 251-Emp., whereby the time limit for submission of application for compassionate appointment was extended. The revised provision categorically stipulated that if the family of the deceased employee is in financial distress and requires immediate assistance, an application for compassionate appointment is to be submitted within two years from the date of death or permanent incapacitation, failing which it would be presumed that the family does not require such financial assistance.
- 7.** Learned advocate for the petitioner, therefore, contends that the petitioner's case is required to be examined in the backdrop of the legal position prevailing at the time of death of the employee as well as the subsequent liberalization of the scheme. It is argued that the initial application on plain paper having been submitted within the time frame, the petitioner cannot be non-suited on hyper-technical grounds, particularly when the scheme itself underwent amendments enlarging the scope and time for consideration.

8. It is further contended that the issue involved in the present case is no longer res integra and stands concluded by a decision of this Bench in **W.P.S.T. No. 36 of 2025 (*Mrinal Kanti Das versus The Joint Secretary, Public Works Department (W.B.) & Others*)**, wherein, in similar circumstances, this Court had occasion to interpret the interplay between the notifications dated 03.12.2013, 23.09.2015 and 01.03.2016. According to the learned advocate, the ratio laid down in the said judgment squarely applies to the facts of the present case, and the petitioner is entitled to the same relief on parity of reasoning.
9. Per contra, learned A.G.P., appearing for the State, has strenuously contended that a harmonious and conjoint reading of the Notifications dated 03.12.2013 (No. 251-Emp.), 23.09.2015 (No. 278-Emp.) and 01.03.2016 (No. 26-Emp.) would clearly demonstrate the legislative intent governing compassionate appointment. It is submitted that although, for a brief period, a certain degree of leniency was introduced by way of Notification No. 278-Emp., permitting submission of applications on plain paper within a limited time, such relaxation was consciously withdrawn shortly thereafter. The deletion of the said amendment by Notification No. 26-Emp. effectively restored the rigour of the original scheme, thereby leaving no scope for entertaining applications made otherwise than in the prescribed proforma.
10. It is further argued that the scheme of compassionate appointment, being an exception to the general rule of public employment, must be construed

strictly in accordance with its terms. As such, there is a mandatory requirement that an application must be submitted in the prescribed proforma within the stipulated time frame, failing which the claim becomes untenable. In the present case, since the petitioner did not submit the prescribed proforma application within the period contemplated under the relevant notification, his claim cannot be said to be legally sustainable.

11. In support of such contention, learned A.G.P. has placed reliance upon the decision of the Hon'ble Supreme Court in case of **State of Madhya Pradesh v. Ashish Awasthi**, reported in **(2022) 2 SCC 157** to contend that the claim for compassionate appointment has to be adjudged strictly in terms of the policy prevailing at the relevant point of time, and no benefit can be claimed on the basis of a subsequent policy or amendment. It is thus submitted that the petitioner cannot derive any advantage from Notification No. 26-Emp. dated 01.03.2016, which came into force after the death of his father, and therefore, the rejection of his claim calls for no interference.
12. The learned State advocate's submission relying upon the decision in the case of **Ashish Awasthi** (*supra*), has to be considered in correlation to the facts in which it was rendered. A bare reading of the Judgement reveals that an issue arose therein that the employee had died on 08.10.2015 when there was no scheme of compassionate appointment. The compassionate appointment scheme was made applicable in that case

much thereafter, on 31.08.2016. There is no such dispute arising in the present case regarding there not being any compassionate appointment scheme in existence at the time of demise of the petitioner's father. The reliance placed on the Judgement, therefore, in our opinion does not inure to the benefit of the State.

13. We have considered the rival submissions advanced by both the parties.
14. It is an admitted and undisputed position on record that the petitioner's father died in harness on 03.11.2015. It is equally not in dispute that the petitioner submitted an application before the competent authority on 02.03.2016 seeking appointment on compassionate ground, which was well within a period of two years from the date of death of the employee. Subsequently, the prescribed proforma application was submitted by the petitioner on 02.02.2018 in continuation of his earlier request.
15. The core issue that thus arises for consideration is whether an application initially submitted on plain paper, followed by submission of the prescribed proforma at a later date for the purpose of consideration of relevant parameters, can be treated as a valid and subsisting application under the scheme of compassionate appointment.
16. This precise issue is no longer *resintegra* and has already been authoritatively decided by this Court in **Mrinal Kanti Das** (supra). In the said decision, this Court had occasion to consider the interplay between an initial application made on plain paper within the prescribed time and the subsequent submission of the formal proforma, and it was held that

such initial application cannot be ignored, particularly when it reflects a timely assertion of claim and is followed by due compliance with procedural requirements.

17. In view of the aforesaid settled position, the petitioner's application dated 02.03.2016 cannot be discarded merely on the ground that the prescribed proforma was submitted subsequently, especially when the initial application was made within the permissible time and the subsequent steps were promptly taken in continuation thereof.
18. It is profitable to quote the observation of this Bench in the case of **Mrinal Kanti Das** (supra) at paragraph 24, 25 and 26 interalia that :-

"24. While a plain paper application may suffice for meeting the timeline, the proforma is required for consideration of the relevant parameters. The proforma contains columns for filling up of the requisite details, based on which eligibility for the propose of compassionate appointment is considered. The proforma is therefore, essential for arriving at a subjective justification regarding admissibility or inadmissibility of the claim for compassionate appointment.

25. An applicant is, therefore, obliged to submit the proforma application at the earliest to facilitate consideration of a claim for compassionate appointment.

26. In a case where the plain paper application is submitted within time and the authority is conscious of such request from the dependents of a Government servant, left in penury due to sudden loss of the bread earner, Clause 10(bb) of 26-Emp. assumes significance. In such a situation, if the

authorities have not discharge their responsibility of meeting the family members earlier, then at least after making an application on plain paper, they should immediately meet and/or advice and assist the dependents in availing the benefit of compassionate appointment, subject to eligibility.”

- 19.** In the present case, it is evident from the records that the petitioner had submitted his application within the stipulated period of two years as prescribed under the scheme. A plain reading of the said application reveals that the petitioner had specifically brought to the notice of the authorities the acute financial hardship faced by the family on account of the sudden demise of the sole bread earner. The application contained a clear and unequivocal request for consideration of appointment on compassionate ground, thereby satisfying the foundational requirement of making an application within the stipulated time under the scheme.
- 20.** Once such an application was made within the prescribed time, the obligation shifted upon the authorities to process the same in accordance with the procedure contemplated under the relevant provisions. In particular, under Clause 10(bb) of Notification No. 26-Emp., it was incumbent upon the authorities to ensure that the necessary formalities, including submission of the prescribed proforma and consideration of relevant parameters, were duly complied with in a structured manner. The scheme, being beneficial in nature, enjoins a duty upon the authorities not merely to adopt a passive approach but to facilitate completion of

procedural requirements so that a genuine claim is not defeated on technical grounds.

21. In the facts of the present case, however, it appears that despite the petitioner having initiated the process within time and having subsequently complied with the requisites, the authorities failed to discharge their corresponding obligation in terms of the said clause. The rejection of the petitioner's claim by order dated 11.01.2023, solely on the ground of delayed submission of a proforma application, without adequately considering the timely initial application and the attending circumstances, reflects a mechanical approach which cannot be sustained in law.
22. In this context, the issue stands squarely covered by the decision of this Court in ***Mrinal Kanti Das*** (supra), wherein, in similar circumstances, it was held that a timely application on plain paper cannot be disregarded and that the authorities are required to act in aid of the applicant to complete the procedural formalities. Ratio of the said decision applies to the present case, facts and circumstances being similar, this Court, therefore, finds that the petitioner's claim has been erroneously rejected and such rejection cannot be sustained.
23. The rejection order dated 11.01.2023 issued by Joint Secretary, to Govt. Of West Bengal, Public Works Department is hereby quashed. The matter is remitted to the respondent no.1 for re-examining the petitioner's claim without raising an objection regarding non-submission of proforma within

a specified time frame. Subject to fulfillment of other criteria, the petitioner's claim should be examined. After such consideration if he is found eligible then he should be given the benefit of compassionate appointment. If he is found ineligible, then he is entitled to know the reasons for such rejection which should be communicated to the writ petitioner by a reasoned and speaking order.

24. The entire exercise is required to be completed within eight (08) weeks from the date of receipt/production of a copy of this order before the respondent no.1. It is needless to say that the petitioner would be obliged to extend full cooperation for completion of the consideration within the timeframe.
25. The writ petition stands allowed in these terms. As a consequence, the Original Application being O.A.515 of 2023 also stands allowed.
26. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)