

**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.174 of 2024

NabakumarPayra

Vs.

The State of West Bengal &Ors.

For the Petitioner : Mr. Swapan Kr. Pal,
Ms. Srijani Mukherjee

For the State Respondents : Mr. Tapan Kr. Mukherjee, Id. AGP,
Ms.Sangeeta Roy

Heard on :7th May, 2026

Judgment on :7th May, 2026

Madhuresh Prasad, J.:

1. Heard the learned advocate for the writ petitioner and the learned State advocate.
2. The petitioner's father committed suicide while he was serving the police service. The death on account of suicide took place on 14.05.1998. It is the writ petitioner's case that the writ petitioner was a minor at that point of time and attained majority 10 years after demise of his father, in 2008.
3. The learned advocate for the petitioner submits that in the year 1998 itself, the writ petitioner's mother submitted an application that when the writ petitioner attains majority, he should be offered an appointment in the "*died in harness*" category.

4. Having attained majority in 2008, the petitioner made an application for compassionate appointment before the authority on 27.06.2014. The application was made seven (07) years after the petitioner attained majority. The delay is explained by the learned advocate by contending that the petitioner wanted to acquire educational qualification before asserting his claim for compassionate appointment.
5. The request made on 27.06.2014, was turned down by the Superintendent of Police, Paschim Midnapore on 03.02.2015. The same was put to challenge in O.A. No. 461 of 2015, filed before the West Bengal Administrative Tribunal ('Tribunal' for short). The Tribunal found the order of the Superintendent of Police to be unsustainable and directed for reconsideration of the petitioner's matter.
6. Reconsideration resulted in another rejection of the petitioner's claim. The reasoned order dated 13.03.2016, records that the claim/application made by the petitioner's mother in 1998 and 1999, is not reflected in the records in the office of the respondent authority. However, a date was fixed for consideration of the petitioner's claim.
7. The writ petitioner filed the second Original Application bearing O.A. No.1003 of 2017. The petitioner sought a direction upon the respondent authorities to communicate the decision with regard to his claim for compassionate appointment. The Tribunal directed the Principal Secretary to take a decision and to communicate the same within a period of eight (08) weeks. Pursuant to the direction of the Tribunal in O.A. No. 1003 of 2017, the petitioner's case was rejected by a communication dated 13.12.2019, issued under the signature of the

Deputy Secretary to the Government of West Bengal in the Home and Hills Affairs Department, Government of West Bengal.

8. The rejection was put to challenge by the writ petitioner in the third Original Application bearing O.A. No. 186 of 2020 filed before the Tribunal. The Tribunal found that there was a long delay of 16 years from the death of the petitioner's father in making an application. The Tribunal further took note of the fact that the petitioner attained majority 10 years after demise of his father. According such consideration, the petitioner's prayer was rejected by the Tribunal by its order dated 20.06.2024. This order of the Tribunal dated 20.06.2024, is the subject matter of the present writ petition.
9. The Court earlier framed issues to be responded by the parties. One of the issues was whether having regard to the inordinate delay on part of the petitioner in making an application for compassionate appointment, about 17 years after the demise of his father, he can claim any such benefit merely because in one of the Original Applications filed by the petitioner (O.A. No.461 of 2015), the petitioner was given an opportunity to raise his claim before the authorities. The other issue which was framed by the Court was whether the fact that the petitioner's father committed suicide, and did not suffer a natural death, can be considered as a circumstance where a compassionate appointment can be claimed.
10. The learned advocate for the writ petitioner submits that the case involves an issue of compassionate appointment. Since 1999, the petitioner's mother was pursuing the claim for the writ petitioner. In

view of the order passed by the Tribunal in O.A. No. 461 of 2015, there is no scope for an issue of limitation/delay and laches to be raised so as to defeat the writ petitioner's claim. She submits that a compassionate view is required to be taken by the Court. She also submits that suicide is also a death and therefore, the fact that the petitioner's father died as a result of suicide, does not adversely effect a claim for compassionate appointment, founded on death of an employee while in harness.

11. The learned State advocate opposed the prayer.
12. We have considered the submissions of the learned advocate for the parties and gone through the records.
13. The fact that the petitioner made an application for compassionate appointment 17 years after demise of his father, is not in dispute. The delay is sought to be explained by submitting that the mother had applied for the petitioner's claim while he was a minor, in the year 1998-1999, itself. Such submission is disputed as State took a stand that no such application was found in the office of the authority. Even if such application had been made in 1998-1999, while the petitioner was still a minor, we are of the considered view that the same would not justify the procrastination on the part of the writ petitioner.
14. As per the Scheme under which compassionate appointment is granted/claimed, it is not in dispute that the petitioner was required to be a major. An appointment could not be granted to a minor. The petitioner attained majority 10 years after demise of his father and applied 17 years after the demise of his father.

15. Considering this timeline, we refer to the recent decision of the Apex Court in the case of ***State of West Bengal Vs. Debabrata Tiwari & Ors.*** reported in ***(2025) 5 SCC 712***. In the Judgement, the Apex Court has laid emphasis on the concept of immediacy for availing a compassionate appointment, since such appointment is for providing immediate succour to a family in distress on account of sudden loss of the bread earner. The Judgement further emphasises the fact that the appointment is in exception to the general rule of recruitment and therefore, must be considered strictly in terms of the Scheme.
16. The Scheme under which the petitioner is claiming the benefit does not provide any latitude for making of an application by a dependant, who was a minor at the time of demise of his father in harness, 17 years after such demise. The delay and laches, therefore, are glaring, moreso in the context of the fact that the claim is for compassionate appointment.
17. Whether the direction of the Tribunal in between for making a representation would revive an otherwise dead or stale claim is an issue which stands covered by decision of the Apex Court.
18. We consider it apposite to refer to decision of the Apex Court in the case of ***Union of India & Anr. Vs. M. K. Sarkar*** reported in ***(2010) 2 SCC 59***. The Apex Court has considered this issue and held that an otherwise dead or stale claim cannot be resuscitated merely because there is a direction by Court/Tribunal for consideration. The Apex Court held that the cause of action has to be considered with reference to the original date on which the cause of action arose. Passing of an

order for consideration by the Court, or the Tribunal (in this case in O.A. No. 461 of 2015) would not resuscitate the otherwise stale and dead claim of the writ petitioner.

19. Based on above consideration with reference to the relevant precedents we find that the petitioner's claim for compassionate appointment was a dead and stale claim. The claim was barred by delay and laches, as also limitation. On this ground alone the petitioner's claim was fit to be rejected. We, therefore, do not consider it necessary to consider an issue whether the unnatural death of the petitioner's father, by suicide would disentitle the dependent family members from benefit of compassionate appointment, death being unnatural. We leave such issue open to be considered in an appropriate case.
20. We, therefore, do not find any infirmity in the order of the Tribunal dated 20.06.2024 passed in O.A. No. 186 of 2020, rejecting the writ petitioner's claim, requiring interference in exercise of judicial review under Article 226 of the Constitution of India.
21. The Writ Petition is dismissed.
22. There will be no order as to costs.
23. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I agree.

(Prasenjit Biswas, J.)

(Madhuresh Prasad, J.)