

W.P.S.T. 228 of 2025

**Shib Shankar Sarkar
Versus
The State of West Bengal & Ors.**

Ms. Shabana Hasin,
Ms. Samima Aktar Banu

...for the Petitioner

Mr. Pinaki Dhole,
Mr. Avishek Prasad

...for the State

1. Heard the learned advocate for the writ petitioner and the learned advocate representing the State.
2. The father of the writ petitioner died while in harness on 03.06.2009 while working as a 'Khalashi' in the Murshidabad Highway Division. The writ petitioner made an application claiming a benefit of compassionate appointment. The application is dated 31.07.2009, as per the petitioner's claim. The petitioner's date of birth as per disclosure in the Original Application is 14.04.1993. He was, therefore, nearly 16 years old at the time of demise of his father. It is specifically averred in the Original Application that the petitioner's claim was rejected by the Joint Secretary of the Public Works Department by an order dated 13.04.2015. The rejection was under due intimation to the writ petitioner, which fact is not in dispute. Post rejection of petitioner's claim for compassionate appointment, he made representations on 20.06.2016 and 16.08.2021.

Being prompted by the subsequent representations, the authorities looked into the matter and the petitioner's claim was rejected again on 01.06.2023, by an order issued under the signature of the Joint Secretary, Public Works Department. The order dated 01.06.2023 was put to challenge by the writ petitioner before the West Bengal Administrative Tribunal (for short 'Tribunal') in O.A. No. 469 of 2024. The O.A. was rejected by the Tribunal by its order dated 04.09.2025, which is the subject matter of the present writ petition.

3. The learned advocate for the writ petitioner submits that the petitioner had made an application diligently within time. As per the extant provisions, since the petitioner was to attain majority within a two-year period, the petitioner's claim ought to have been considered on a positive note. The earlier rejection dated 13.04.2015 was without assigning any reasons. The subsequent rejection order dated 01.06.2023 is also unsustainable inasmuch as the sole ground for rejection of the petitioner's claim is that he was a minor at the time of death of his father. The reason assigned is without taking into consideration a fact that the petitioner would have attained the age of majority within the time limit specified for making of an application.

4. The learned State advocate on the other hand supports the two rejection orders. It is submitted that the Tribunal's order rejecting the petitioner's claim does not require any interference as the petitioner's claim was to be considered in terms of the policy in vogue at the time of demise of his father, being the policy notified on 03.12.2013 bearing a Notification No. 251-Emp.
5. We have considered the rival submissions.
6. The fact, not in dispute, is that the petitioner's claim was initially rejected by the competent authority on 13.04.2015. The same was never put to challenge by the writ petitioner. Even in the present O.A., there is no prayer for setting aside of the earlier rejection order dated 13.04.2015.
7. That apart, we find that the petitioner has filed the O.A. in 2024, about nine years after the first rejection order and decades after demise of his father in harness. The order impugned in the present O.A. is based on representations made after the earlier rejection order dated 13.04.2015.
8. Whether making of representations after the first rejection order would entitle the petitioner to be considered for the purpose for limitation, delays and laches based on a subsequent order dated 01.06.2023, is no longer *res integra*.
9. The Judgement of the Apex Court in the case of ***Union of India & Ors. Vs. M.K. Sarkar*** reported

in **2010 (2) SCC 59** has settled this issue. The Apex Court held that the stale and dead issue cannot be resurrected by relying upon representations made subsequent to the stale order. For the purposes of limitation, delay and laches the consideration will have to be founded on the earlier rejection which in this case is dated 13.04.2015.

10. In the present case, the petitioner's claim has to be considered also keeping in view the fact that the earlier rejection order dated 13.04.2015 was never put to challenge. The subsequent rejection order dated 01.06.2023, in view of the decision of the Apex Court does not provide a fresh cause of action. Whether such a belated claim can be raised in respect of a benefit of compassionate appointment, is by now settled by the Apex Court in the case of ***State of West Bengal Vs. Debabrata Tiwari & Ors.*** reported in **(2025) 5 SCC 712**, wherein the Apex Court held that the object and purpose of a scheme for compassionate appointment is to provide succour to a family left in penury and destitute on account of a sudden loss of the bread earner. The concept of immediacy has been stated by the Apex Court to be of paramount importance in respect of a claim for compassionate appointment. The facts and circumstances above noted leave no room for

doubt that the application was made belatedly and that the petitioner never assailed the earlier rejection order dated 13.04.2015.

11. No case is made out for issuance of any directions by the Tribunal or by this Court for a consideration today in respect of a scheme for compassionate appointment, keeping in view the petitioner's above noted conduct, and the fact that the death of the Government employee occurred on 03.06.2009. The writ petition is devoid of merit.
12. The Writ Petition is dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)