

W.P.S.T. 229 of 2025

**Sudarshan Rjwar
Vs.
The State of West Bengal & Ors.**

Mr. Ramkrishna Bhattacharyya,
Mr. K. Choudhury,
Mr. Dwaipayan Panda,
Mr. Tridip Das

...for the Petitioner

Mr. Tapan Kumar Mukherjee, Id. A.G.P.,
Ms. Tuli Sinha

...for the State

1. Heard the learned advocate for the applicant/writ petitioner and the learned A.G.P.
2. The writ petitioner's father died while in harness on 24.03.2018. The applicant made an application for the benefit of compassionate appointment, which was rejected by an order dated 31.05.2023 passed by the Assistant Secretary to the Government of West Bengal in the Panchayat and Rural Development Department. His claim was rejected on the ground that the applicant did not attain the minimum age for recruitment and he was only 14 years old at the time of submission of his application.
3. The writ petitioner assailed the order dated 31.05.2023 before the West Bengal Administrative Tribunal ('Tribunal' for short) by filing an Original Application. The O.A. No. 221 of 2023 was rejected by the Tribunal, which found no merit in

the petitioner's claim. The Tribunal's rejection order dated 29.01.2025 is put to challenge in the present writ petition.

4. The learned advocate for the writ petitioner submits that the Three Man Committee recommended the petitioner's claim for compassionate appointment by its report submitted to the Block Development Officer (BDO). The report of the Three Man Committee founded on consideration dated 12.09.2019, found the family to be coming within the scope of a beneficiary in terms of indigency. The Committee accordingly forwarded its report for consideration to the BDO, Raghunathpur. The BDO accepted and endorsed the view of the Enquiry Committee to the District Magistrate, Purulia, which obviously travelled to the department culminating in the rejection order dated 31.05.2023. The rejection order does not reconcile with the positive recommendation of the Three Man Committee. In view of the recommendation, the department should not have rejected the petitioner's claim as there is no basis for such rejection. The ground regarding belated application is otherwise also unsustainable in view of the provisions contained in 26-Emp dated 01.03.2016, being a Notification governing

consideration and grant of benefit of compassionate appointment.

5. Referring to Clause 10(a), the learned advocate for the petitioner submits that 26-Emp allows request for compassionate appointment in case of death having occurred up to five years ago. As per Clause 10(a) of the Scheme, the person who was even 13 years of age on the death of the deceased Government employee is allowed five years to submit an application. Therefore, the fact that the petitioner was 14 years on the date of demise of his father does not in any way preclude the petitioner from consideration/grant of benefit.
6. The learned A.G.P. on the other hand submits that the writ petitioner is son of a person who was rendering his services as a 'Gram Panchayat Karmee' in the Joradih Gram Panchayat. His service was not a service on a civil post and therefore, there is no basis to claim compassionate appointment, the scheme being applicable only to employees holding a civil post.
7. Another submission is founded on the self-same Clause 10(a) of 26-Emp. It is submitted that the Notification allows submission of applications up to five years from the date of death but only in exceptional circumstances. There are illustrative exceptional circumstances enumerated in Clause

10(a) of 26-Emp. The petitioner's case does not fall under the exceptional circumstances illustrated in 26-Emp under Clause 10(a). He has not made out any case so as to bring the writ petitioner's claim to be a claim raised in any exceptional circumstance. From the proforma application submitted by the writ petitioner, it appears that the Government employee left behind a wife and also a daughter, who was elder to the present petitioner. Since no exceptional circumstance has been made out for invoking the time limit (five years) specified in Clause 10(a), the rejection by the impugned order does not require any interference.

8. We have considered the rival submissions and find that the Three Member Committee's recommendation was subject to a final decision taken thereupon by the department. The department having considered the recommendation did not find any exceptional circumstance so as to allow the writ petitioner's claim, even though he was underage for an appointment by four years.
9. In our opinion, such rejection is in accord with 26-Emp which reads:

"10(a)

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.”

10. A plain reading of the provision reveals that the petitioner could not obtain any benefit under Clause 10(a) to make an application after 4 years, or after attaining the minimum age for recruitment. The same was permissible only in an exceptional circumstance as contemplated under 10(a). No such case being made out. There is no scope for the petitioner to place reliance on Clause 10(a).
11. Insofar as the other submission raised by the learned A.G.P. regarding the petitioner's father not being a civil employee, no such stand was taken

by the State before the Tribunal. In the affidavit-in-opposition filed before this Court also no such stand has been taken.

12. We, therefore, find that the issue having not raised, does not merit any consideration.
13. In view of our above consideration, without expressing any opinion on the submission that petitioner's father was not holding a civil post and leaving it open to be considered in an appropriate case, we dismiss the Writ Petition as the Tribunal's order dated 29.01.2025 passed in O.A. No. 221 of 2023 does not require any interference.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)