

GOVERNMENT OF WEST BENGAL
LABOUR DEPARTMENT
EMPLOYMENT CELL
Writers' Buildings, Kolkata-700001

NOTIFICATION

No. 133-Emp.

Dated : 01.10.2007

At present, appointment on compassionate grounds of the dependants of State Government employees who die in harness, or retire prematurely on being declared permanently incapacitated for service, is governed by the provisions of Labour Department Notification No.97-EMP dated 6.6.2005 (hereinafter referred to as the Notification), read with corrigendum No. 131-Emp dated 26.08.2005, corrigendum No. 151-Emp dated 8.9.2005, corrigendum No. 27-Emp dated 8.2.2006, Memorandum No. 28-Emp dated 8.2.2006, and Notification No. 69-Emp, dated 26.06.2007. The Government has considered it necessary to modify certain provisions of the above-mentioned notifications and to issue certain clarifications for the purpose of uniform treatment to similarly placed persons, simplicity of operations and removal of doubts. Accordingly, the Governor is pleased to direct that the principles and procedure as laid down in the following paragraphs shall be followed in the matter of appointment on compassionate ground.

1. As per existing provisions, cases of appointment on compassionate grounds in which report of the Departmental Enquiry Committee, constituted in terms of para 5 of the Notification, recommending such appointment has been received before issue of the Notification by the Appointing Authority are to be dealt with in accordance with the policy and procedure that existed prior to the issue of the Notification that is, prior to 6.6.2005. It has come to the notice of the Government that in a large number of cases of death in harness/premature retirement on grounds of permanent incapacitation occurring prior to 6.6.2005 could not be enquired into by the Departmental Enquiry Committees or reports could not be submitted before 6.6.2005 for various reasons. **Moreover, no time limit was stipulated in any Government Orders issued in this regard for holding enquiry and submission of report to the Appointing Authority within a specific period.** The prescription of 6.6.2005 as the cut-off date for submission of the report of the Departmental Enquiry Committee to the Appointing Authority has led to differential treatment of similarly placed person.

In view of the situation explained above, it is now decided, in modification of notification No. 97-Emp, dated 6.6.2005 (~~as~~ subsequently amended) that all cases of appointment on compassionate ground in cases of death/premature retirement of State Government employees occurring prior to 6.6.2005 shall be dealt with in the following manner—

(a) Cases where the report of the Departmental Enquiry Committee has been submitted to the Appointing Authority of the concerned state government employees,

before 6.6.2005 shall be disposed of by the concerned administrative department in terms of this department Notification No. 301-303-Emp. Dt. 21.08.2002 read with Finance Department Memo No. 1773-F dated 01.03.2006, without making any reference to the Nodal Committee in the Labour Department.

(b) Cases where the report of the Department Enquiry Committee has been received by the Appointing Authority on or after 6.6.2005 or, are yet to be received, shall be referred by the administrative department to the Nodal Committee in the Labour Department constituted in terms of para 6 of the Notification. The Nodal Committee, on examination of the merit of each such individual case, shall send its views to the concerned administrative department for necessary disposal of the case in consideration of the said views of the Nodal committee and as per guidelines contained in this department notification No.301-303-Emp. Dated 21.08.2002 read with Finance Department Memo No.1773-F dated 01.03.2006.

2. In terms of para-8 of notification no. 97-Emp date 06.06.2005, the appointment of dependants of die-in-harness and premature retirement cases of state government employees are required to be made against vacancies available only in six departments, viz, (i) Health and Family Welfare, (ii) School Education, (iii) Higher Education, (iv) Mass Education Extension, (v) Home (Police) and (vi) Jails Department against the appropriate vacancy points in the **hundred point roster** applicable for direct recruitment in which provision has been made for reservation of roster points for different exempted categories vide Labour department notification no.240-Emp dated 02.08.2001. The availability of vacancies for giving appointment on compassionate ground has, therefore, been quite meager due to limiting such appointments in six departments only, whereas vacancies in the appropriate points of the hundred point roster in the remaining departments are being left unfilled creating difficulties in their functioning.

The Governor is, therefore, pleased to decide that in cases where the Nodal Committee, on examination in terms of the Notification, recommend employment, **such employment may be given under the same government department from where the case arose**, provided the department has the need to fill up the existing vacancies. In the event of non-availability of berth for accommodating such a case of appointment on compassionate ground, the concerned administrative department will move other departments for suitable berth. When a suitable berth is available in a different department to accommodate the case, the administrative department will forward the case with relevant papers to that department for further action regarding appointment. The latter department having vacancy in the exempted category will provide employment to the concerned candidates subject to observance of relevant conditions and formalities.

3. One of the conditions that needs to be fulfilled for offering appointment on compassionate ground is that the family of the deceased or prematurely retired employee is in need of **immediate financial assistance**. However, the norms on the basis of which it can be judged whether the family of the deceased or the prematurely retired employee is in need of assistance have not been defined anywhere. In order to remove doubts in the matters it has now been decided to lay down the following objective criterion for the purpose of determining whether the family of the deceased or prematurely retired employee is in need of immediate financial assistance—

The family of a deceased or prematurely retired employee shall be considered to be in need of immediate financial assistance, if the monthly income of the family falls below 75 per cent of the gross monthly salary of the employee before death or premature retirement.

Notwithstanding the limit mentioned above, if the monthly income of the family falls below the minimum salary of a Group-D employee (in case of Group-D employees) or the minimum salary of a Lower Division Clerk (in case of employees other than those belonging to Group-D) the family shall be considered to be in need of financial assistance.

For the purpose of this definition, (i) the gross monthly salary shall mean basic pay along with dearness pay, dearness allowance, house rent allowance and medical allowance; (ii) monthly income of the family shall mean the aggregate of—

(a) Amount of total family pension per month.

(b) Monthly interest income @8% p.a. on the total amount received by the family after death of the employee or retirement of the incapacitated employee (GPF, Gratuity, Leave Encashment, any other payments).

Provided that, where an ex-employee had to incur medical expenses as indoor patient prior to and leading, to his death/incapacitation, such expenses may be deducted from the amount received. All such expenses must be supported by original receipt/cash memo, hospital discharge certificate.

(c) Monthly income from movable and immovable properties (the family members are expected to submit a declaration on the matter).

(d) Monthly income of the dependents of the ex-employee named in the application (the family members are expected to submit a declaration on the matter).

4. The dependant of an employee seeking appointment on compassionate ground shall henceforth make an application in the prescribed proforma within **six months of death of the deceased employee or his retirement** on permanent disablement. If no application is submitted within this stipulated period, it will be presumed that the family does not require immediate financial assistance.

5. All other provisions laid down in notification no. 97-Emp, dated 6.6.2005 to the extent those are not inconsistent with the principles and procedure mentioned hereinbefore shall continue to apply.

6. This issues with the concurrence of the Finance Deptt. vide their U.O. No.3657 Group-P (Service) dated 26.09.2007.

By Order of the Governor,
AMIT KIRAN DEB
 Chief Secretary to the Govt. of West Bengal