

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das

Case No – **OA 1411 OF 2013**

Samiran Chakraborty & Anr. Vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
14 <hr/> 12.03.2018	<p>For the Applicants : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has filed the original application under section 19 of the Administrative Tribunals Act, 1985 challenging the order communicated under letter dated August 7, 2013 issued by the respondent no. 2 (Annexure-L to the original application) and praying for direction upon the respondents to give appointment to the applicant on compassionate ground.</p> <p>The contention of the applicant is that one Manaranjan Chakraborty died on December 12, 2004 while he was working as Gardener in the office of District Officer, Department of Food Processing Industries and Horticulture, Uttar Dinajpur. The said Manaranjan Chakraborty adopted the applicant as his son on the basis of the registered Deed of Adoption dated September 12, 1989. The application filed by the applicant for compassionate appointment as adopted son of the deceased employee was rejected on the basis of opinion of Learned Legal Remembrancer which was communicated under the impugned letter dated August 7, 2013. It appears from the said letter that Shibesh Chandra Chakraborty, the biological father of the applicant did not obtain consent of his wife for giving</p>	

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adoption of the applicant by executing registered Deed of Adoption. The respondent no. 2 communicated the inability of the department to consider the case of the applicant for compassionate appointment as the wife of Shibesh Chandra Chakraborty did not give her consent for adoption of her son i.e. the applicant.

By referring to the Affidavit sworn by one Laxmi Chakraborty, wife of Late Shibesh Chandra Chakraborty (Annexure-O to the original application), Mr. Banerjee, Learned Counsel for the applicant submits that the wife of Shibesh Chandra Chakraborty has subsequently conveyed her consent with regard to adoption of the applicant, but the said Affidavit has not been considered by the authority concerned in rejecting the prayer of the applicant for compassionate appointment. Since the grievance of the applicant is that the Affidavit sworn by the biological mother of the applicant on November 7, 2013 has not been considered by the authority concerned, we are of the view that the said Affidavit may be considered by the authority concerned to decide the case of the applicant afresh.

In view of our above findings, the order of the department communicated under letter dated August 7, 2013 (Annexure-L to the original application) is set aside. The respondent no. 1, Secretary, Department of Food Processing Industries & Horticulture, Government

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of West Bengal is directed to reconsider the case of the applicant for compassionate appointment on the basis of the materials already available on record and on the basis of the Affidavit dated November 7, 2013 sworn by Laxmi Chakraborty (Annexure-O to the original application) in accordance with law within a period of 12 (twelve) weeks from the date of communication of this order and communicate the result of the same to the applicant within a period of 2 (two) weeks thereafter.

With the above direction, the original application is disposed of.

Let a plain copy of this order be supplied to both the parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib