

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – CCP 02 of 2024 (OA 297 of 2023).

LISHA MITRA - VS- MR. ZAFAR AJMAL KIDWAI, DEPUTY COMMISSIONER OF POLICE, DEPARTMENT OF HOME (POLICE), GOVT. OF W.B. & ORS.

Serial No. and

Date of order

02
12.08.2024

For the Applicant : Mr. A. Chakraborty,
Advocate.

For the Alleged Contemnor/O.P. : Mr. M.N. Roy,
Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

In short, the case evolves around the following issues :-

Swarup Kumar Mitra, as S.I. of Police with Port Division died in harness on 31.12.2017. It was later revealed that he had contracted a second marriage during the subsistence of first marriage with Chandana Mitra. Purnima Mitra was the first wife. Lisha Mitra, the applicant is the daughter of Chandana Mitra. After the death of Swarup Kumar Mitra, Lisha Mitra, the elder daughter from the second wife Chandana Mitra applied for an employment on compassionate ground. Purnima, the step mother refused to issue the "NOC" (No Objection Certificate) to Lisha to avail such an employment. This matter was earlier heard by this Tribunal in OA 725 of 2018 and in terms of the Tribunal's direction, the Deputy Commissioner of Police, Port Division passed the reasoned order dated 22.01.2019. In the reasoned order it was argued that since submission of "NOC" from other legal heirs is mandatory and in absence of such document, the Respondent authority was not in a position to recommend such an employment.

From the facts and submissions heard by the Tribunal, it is very clear that Clause XI – Undertaking of the Notification 251-Emp dated 03rd December, 2013 requires an undertaking to be given by the applicant in writing that he/she will properly look after other members of the family. In other words, other family

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members are required to give "NOC" to the applicant confirming that if he/she is given an appointment, she has agreed to look after them. In this case, Purnima Mitra has refused to give such an undertaking to the applicant, Lisha Mitra.

The Tribunal also is aware that besides the requirement of obtaining a "NOC" from other family members, the applicant also has to fulfil other eligible criterias as stipulated in Emp-251 and other relevant Notifications. One of the important criterias to be fulfilled by the applicant and satisfy the authority is that the family of the deceased employee has been passing through serious financial difficulties and its gross monthly earning is below 90 percent of the gross salary last earned by the deceased employee. In this matter, it has not been presented before the Tribunal whether the family was passing through any financial difficulties. In absence of such fact being presented, it is rather difficult to pass any direction upon the Respondents to consider an employment under compassionate ground. The Tribunal also reminds itself of several judgements of the Hon'ble Supreme Court, which in short, stresses the point that compassionate employment is a need based concept and not a vested right of the family. Even after "NOC" is given to the applicant by Purnima Mitra and other members, it cannot be assured that granting such an employment will be obligatory on the part of the State authorities. The State authorities have to be satisfied that the applicant also fulfils all other eligible criteria as stipulated in Emp-251 and subsequent amendments. The Tribunal does not find that these conditions have been fulfilled by the applicant and thus, no direction can be passed to the Respondent's side to consider her application.

Having examined the compliance report filed by the alleged contemnor, the Tribunal is satisfied that no contempt lies and, therefore, contempt proceedings are dropped and this contempt application is disposed of.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

HS/Skg.

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