

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. - OA 1217 OF 2014

PARAMITA HALDER - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mrs. Sonali Mitra,
and Learned Advocate
Date of order

For the State Respondents : Ms. Ruma Sarkar,
Mrs. Anjana Bhattacharjee,
Learned Departmental representatives

22
29.01.2025

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.

The applicant has prayed for setting aside the impugned order dated 10.04.2014. By passing this impugned order and giving reasons, the reasoned order rejected the prayer of the applicant for employment on compassionate ground. The impugned order relied on para 3 (d) and 10 (a) of the Labour Department notification No. 251-Emp dated 03.12.2013. The Clause 3 (d) defines right to being a legal heir of a married daughter if she was unmarried on the date of the death. Clause 10 (a) deals with submission of such application within six months from the date of death of the employee.

Submitting on behalf of the Department, Ms. Sarkar states that the applicant had submitted the application after more than two years from the date of death of her father. Further, the application was not found admissible because the applicant was a married daughter at the time of death of her father.

Submission is that though the Notification No. 251-Emp dated 03.12.2013 has been amended subsequently, but the rejection was done before publication of the amended notifications No. 26-Emp dated 01.03.2016 and 419-Emp dated 04.11.2022. In view of the above, the applicant's application was considered with regard to notification No. 251-Emp dated 03.12.2013. Since both the dates of death of deceased employee as well filing of the application occurred prior to publication of the above notifications No. 26-Emp dated 01.03.2016 and 419-Emp dated 04.11.2022, therefore, these amended Notifications will not be relevant while considering the application.

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Now in response to views expressed by Ms. Sarkar, Mrs. Mitra learned counsel for the applicant disagrees and submits that the reason for the delay of more than two years in submitting the proforma application is that being a married woman, she was not given the proforma application. As regards the applicant's eligibility for such employment despite being a married woman, Mrs. Mitra refers to judgement dated 13.09.2017, passed by the Hon'ble High Court at Calcutta in FMA-1277 of 2015 in the case of "*The State of West Bengal & Ors. Vs. Purnima Das & Ors*". As per this judgement Mrs. Mitra submits that even a married daughter is entitled for such employment.

Disagreeing the submission of proforma application was not given to her, Ms. Sarkar submits that it is not in the records that the respondents did not co-operate in not giving a copy of proforma application to the applicant. Further, it is also evident that the applicant had not submitted even a plain paper application before the respondent authorities. Such submission of a plain paper application would have proved the point that the applicant had submitted her application within the time limit. As regards the question of applicability of the judgement and order of the Hon'ble Supreme Court, Ms. Sarkar submits that this judgement came only in the year 2022, much later after consideration of the application filed by the applicant. Therefore, by relying on the Apex Court Judgement, at a later stage, will not help the applicant, being a married woman, for being eligible to get such employment on the date of rejection 10.04.2014. It has also not been substantiated that the applicant, as a married daughter, had fulfilled other criterias for such employment as laid down by the Hon'ble Apex Court's judgement.

Attention is drawn to notification No. Labr/419/Law dated 04.11.2022. Therefore, the contention of the applicant that even being a married daughter at the time of death of her father, she is entitled, is not a valid argument. The benefit of such amendment in notification No. Labr/419/Law dated 04.11.2022 came into effect only from 04.11.2022, whereas, the applicant was a married daughter at the time of her father's death, which occurred on 11.09.2008. Further submission is that simply being a married daughter cannot claim to have the absolute right to be considered for compassionate employment. The spirit of law is clear that such married daughters are to be wholly dependent on the financial resources of her parents. In this case, as evident from the proforma application, the applicant has herself

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stated that she is married and partly living with the family. By such statement, the respondent authorities could not be satisfied that the applicant, though married, was entirely dependent on her parent's income. Mrs. Mitra relies on a judgement passed by the Hon'ble Apex Court in CBI vs. R.R. Kishore on 11.09.2023, CrI. Appeal No.377/2007. The Tribunal finds that the same has no manner of application in the present case.

Having observed the above points, the Tribunal is not satisfied that the prayer in this application merits any direction to the respondent authorities. The respondent authority is correct in taking a decision regretting the proposal of compassionate employment and such decision was taken within the legal framework covering an employment under compassionate ground. The application is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.