

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. OA – 151 of 2019

Gunja Gupta - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. D.K. Mukherjee, Advocate
<u>11</u> 02.03.2023	For the Respondents	: Mr. S. Ghosh, Advocate

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

On consent of the learned counsels, the case is taken up for consideration sitting singly.

The prayer in this application is for providing compassionate employment of the applicant by the respondent, Commissioner, Textiles & Sericulture, West Bengal in terms of the Tribunal's order. This reasoned order had rejected the application for compassionate employment on the ground that the applicant's deceased father working as Resham Karmee was never absorbed in regular establishment. The reasoned order also states that the receipt of pensionary benefit does not create any right of appointment under compassionate ground.

Mr. D.K. Mukherjee relies on the fact that since the applicant received the pension, therefore, it is to be accepted that he was under regular establishment.

Mr. S. Ghosh, however, controverts this statement with the submission that receiving pension does not confer on an employee the status of permanent employee and pension does not entitle a family member for compassionate employment.

Mr. S. Ghosh, also refers to page No. 25A which appears to be order of the department issued on 06.07.2000, in which as policy, the Government has declared the Resham Karmees not being eligible for compassionate employment on the ground that

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Gunja Gupta

Vs.

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THE STATE OF WEST BENGAL & ORS.

these posts are supernumerary posts and such post will cease to exist as and when the Resham Karmee dies or retires.

Mr. S. Ghosh submits that this order was never challenged by any of the applicants and this order is still in force.

After hearing the submissions and considering the facts and circumstances of the case, the Tribunal is of the opinion that since the applicant's deceased father was not an employee in a permanent capacity and absorbed in any regular establishment, the application for compassionate employment has no merit. Moreover, receiving pension does not give any right to the applicant to claim compassionate employment.

Accordingly, the application is disposed of.

**SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P