

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 – 370 of 2024

Samba Hembram - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S.N. Ray, Advocate
<u>1</u> 12.11.2024	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.

Affidavit of service filed be kept in record.

The applicant has filed this application praying for setting aside the impugned Memo No. 1260 dated 9th May, 2024. This Memo was the decision of the Department conveyed to the Superintending Engineer regretted the prayer of the applicant for an employment under compassionate ground. By Memo 198 dated 29.05.2024, the Executive Engineer had communicated the decision of the Department to the applicant. Jama Hembram, father of the applicant had died on 26.04.2009 working as a Khalasi under the Department of Irrigation and Waterways. As the legal heir of the deceased employee, the applicant had furnished his prayers before the respondent authorities praying for an employment under compassionate ground. From the records, it is clear that such an application from the applicant was processed and a letter from the Superintending Engineer, Kangsabati Circle-II, Bankura also described applicant of having fulfilled all the eligibility criteria for an employment on compassionate ground. However, the Department decided not to consider his prayer for compassionate employment.

Mr. Ray, learned counsel has argued that the impugned order regretting the applicant's prayer for employment is bad in law because it does not state any reason for such rejection. This Tribunal after examining the copy of the impugned document is satisfied that the respondent authority, the Joint Secretary of the Department in his impugned correspondence No. 1260 dated 9th May, 2024 regrets the prayer without giving any reason. The relevant line of the impugned Memo is as under:

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“the undersigned is directed to inform him that this Department has duly considered and examined the prayer of Shri Sambha Hembram, S/o Late Jama Hembram, Ex-Khalasi, under K.C. Sub-Division No – IV for employment in Group – ‘D’ post on compassionate ground under dying-in-harness category, and regrets its inability to accede to the same.”

The Tribunal is surprised that the Department, though examined the proposal in detail but could not find any reason and ground to support its decision regretting the prayer for compassionate employment. The petitioner, a job aspirant under the Compassionate Scheme and son of the deceased employee deserved to be told the specific ground under the existing rules. It is unfair to be told that his prayer for compassionate employment was not accepted by simply stating “inability to accede”. The Department has been arbitrary and whimsical and thus denied natural justice to the applicant. The Tribunal finds this impugned Memo bad in law and thus not tenable and therefore it is quashed and set aside with a direction to the respondent No. 2 (a), Secretary, now re-designated as Principal Secretary, Irrigation and Waterways Department to pass a clear and speaking reasoned order citing the relevant rules in support of his decision within three months from the date of communication of this order. Let a copy of the reasoned order be communicated to the applicant within two weeks thereof. Accordingly, this application is disposed of.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P