

**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-486 of 2023**

**Debasmita Guha -- VERSUS – The State of West Bengal & Ors.**

Serial No. For the Applicant : Mr. J. Roy, Ld. Advocate.

and  
Date of order For the State Respondent : Mr. D. Kole, Ld. Advocate.

04  
31.07.2024

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

This application has been filed challenging the impugned reasoned order dated 27.06.2022, passed by the respondent authorities, rejecting the application for employment on compassionate ground. The deceased employee working as Veterinary Pharmacist had died in harness on 28.07.2016. A plain paper application was submitted on 17.08.2016 by the widow and mother of the applicant praying for a compassionate employment for the daughter. The applicant herself furnished her proforma application before the respondent authorities on 17.06.2019. The fact of submission of such proforma application is not contested by the respondent side. However, it appears the respondent authorities in the impugned memo completely ignored the fact that such a plain paper application was earlier submitted by the mother on behalf of the applicant within the time frame. Further after a close reading of the impugned rejection memo, it is evident that her application was rejected without mentioning any specific reason for such rejection. The relevant lines rejecting the application is as under:

“Whereas, the Departmental Committee, on examination of the documents and considering the matter from all relevant aspects, made it observations/recommendations to the ARD Department. Based on the above exercise, the department has decided that present application for appointment on compassionate cannot be granted as it does not fulfil the requisite conditions laid out by the Government of West Bengal for compassionate appointment. Hence, the application of Smt. Debasmita Guha for appointment on compassionate grounds is hereby declined and disposed of.”

Form No.

Case No. **OA-486 of 2023**

---

**Vs.**

The State of West Bengal & Ors.

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It is also apparent that the respondent authorities did not mention what were those specific “requisite condition” under the scheme on employment under compassionate ground which were not fulfilled. It is also observed that this impugned reference rejecting this application relied on the enquiry report of the 3- Men Enquiry Committee. However, the enquiry report available in the reply furnished by the respondent authority had given a report contrary to what has been quoted by the respondent authority. The Enquiry Committee had noted “the family facing acute hardship” and “getting small amount of pensionary benefit”. The Tribunal finds that the factual report of the Enquiring Committee was not correctly reflected in the impugned order.

The other ground for such rejection added in the reply of the respondent is that the applicant submitted the proforma application after a lapse of 2 years and 9 months. The reply has recorded 17.06.2019 as the date of such proforma application submitted by the applicant. In this count also, the respondent authorities were wrong in saying that there was a delay of 2 years and 9 months. As per Notification No. 251-Emp. amended by Notification No. 26-Emp., the applicant gets a benefit of 2 years time for submission of such proforma application. If this 2 years period is availed by the applicant, the actual delay would be only 10 months and 30 days. Thus, the Tribunal does not agree and accept the contention of the respondents side that the applicant’s proforma application was submitted after 2 years and 9 months delay. The Tribunal is also not satisfied with the reason given in the impugned correspondence dated 27.06.2022 that while taking the final decision, it had taken into consideration the observations of the Committee. As observed and recorded in the foregoing paragraphs, the Tribunal has found that the Committee, on the contrary, had observed that the family has been passing through difficult times and such a proposal had been recommended. Further, the Tribunal has also observed that the impugned order regretting the proposal had also relied on the ground that the applicant had not fulfilled “the requisite conditions”, but the impugned order has failed to specify in its order what were those requisite conditions not fulfilled by the applicant. If such a proposal was to be regretted, then it was the responsibility of the respondent authority to have specified the

Form No.

Case No. **OA-486 of 2023**

---

**Vs.**

The State of West Bengal & Ors.

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appropriate conditions stipulated in the Government Orders. Simply by stating that such requisite conditions were not fulfilled does not fulfil the responsibility of the respondent authorities. It is also unfair to the applicant to have her application rejected on such vague ground.

In the light of the above observations, the Tribunal is compelled to conclude that the impugned reference no. 1806 dated 27.06.2022 regretting the application of the applicant for employment under compassionate ground is not tenable under the law and it is quashable and therefore, it is quashed and set aside with a direction to the respondent no. 2 (1), the Secretary now the Additional Chief Secretary, Department of Animal Resources Development to reconsider his decision and in the light of the Tribunal's observations pass a fresh reasoned and speaking order within a period of ninety (90) days from the date of communication of this order. Let a copy of such reasoned order be communicated to the applicant within a period of two (02) weeks thereof.

Accordingly, this application is **disposed of**.

CSM/SS

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**