

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 – 715 of 2023

Tushar Kanti Panda - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. G.P. Banerjee, Advocate
<u>5</u> 25.07.2024	For the Respondents	: Mr. S.N. Ray, 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.

The applicant has prayed for setting aside the reasoned order No. 2263 dated 23.08.2023 by the Additional Chief Secretary, Animal Resources Development Department. This reasoned order is passed in terms of the direction of the Tribunal in OA-813 of 2022. In this reasoned order, the respondent authority has stated reasons for rejection of the application submitted by the applicant for employment under compassionate ground.

The father of the applicant, Banshidhar Panda had expired while serving as a Livestock Development Assistant on 25.09.2015. According to the applicant, he submitted a plain paper application before the B.L.D.O., Ramnagar, Purba Medinipur on 28.09.2015. Later on 10.12.2015, he submitted the application in prescribed proforma which was forwarded to the department on 05.09.2016. The department had considered and regretted such a proposal by its impugned order dated 20.09.2022. An earlier application was filed in this Tribunal which was disposed of by directing the Secretary of the department to reconsider the application for compassionate employment and pass a reasoned and speaking order. In terms of such a direction, the Additional Chief Secretary, department of Animal Resources Development passed a reasoned order on 23.08.2023. This reasoned order is being challenged in this Tribunal on the ground that the applicant had furnished both the plain paper and the prescribed proforma application before the respondent authorities within the time limit.

Ms. S. Das Roy, learned counsel for the applicant had agitated that an application for appointment on compassionate ground submitted within the time limit

ORDER SHEET

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cannot be rejected after long lapse of seven years without any valid ground. She had submitted that the reasons relied by the respondent authority in rejecting her applicants' proposals are on superfluous ground and does not relate to the ground reality, such rejection on the ground that the applicant lives with his elder brother who is financially very sound.

Mr. S.N. Roy, learned counsel appearing for the State respondents had argued that an employment under compassionate ground is considered only for the families of deceased employee who are going through serious financial difficulties. In this case, the applicant living with his elder brother who is financially being very well, the case for such an employment does not hold any strong ground.

Apart from the submission made by Mr. Roy supporting the rejection of the proposal, the Additional Chief Secretary in his impugned reasoned order has observed that the applicant had misrepresented about the occupation of his brother. It also noted that the applicant had declared that his elder brother is self-dependent and lives in a separate house. But it was later revealed through the report of the District Magistrate that both the brothers with their mother live in the same house.

Having heard the submissions of the counsel for both sides and after examination of the records, the Tribunal fails to be satisfied with the applicant's arguments. Field enquiry has proved beyond any reasonable doubt that the applicant lives with his other family members, including the elder brother who holds a post of a librarian. Contention of the applicant living alone in a mud house has been proved wrong. The Tribunal is aware of several judgements of superior courts stressing the point that compassionate employment is a need-based concept. Unless it has been proved beyond reasonable doubt that due to death of the employee, the family is passing through serious economic difficulties, a compassionate employment, not being a vested right, can be claimed and considered. In this case, the applicant's side has failed to satisfy the Tribunal on this front.

Therefore, not finding any merit in this application, it is disposed of without any direction to the respondents.

A.K.P

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)