

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Justice Soumitra Pal, Chairman**

**Case No. OA - 905 of 2019**

**Koustav Mukherjee - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. J.R. Das, Mr. K. Karim, Advocates.
<u>28</u> 22.01.2021	For the State respondents	: Mr. A. Datta, Mr. A. De, (Departmental Representatives) Land and Land Reforms Deptt.

The matter is taken up by the single Bench pursuant to the Notification No.949-WBAT/2J-15/2016 dated 24<sup>th</sup> December, 2020 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

The 2<sup>nd</sup> Bench is not sitting today. Accordingly, the cases listed in respect of the aforesaid Bench have been placed before the 1<sup>st</sup> Bench in terms of Notification dated 20.01.2021.

The matter has come up under the heading 'Reply, Rejoinder & Objection'. I find from records that on 29<sup>th</sup> November, 2019 the matter was admitted. Direction was issued to file reply and rejoinder. Though the respondents are represented, no reply has been filed.

It is submitted by Mr. M. Karim, learned advocate for the applicant that though the matter has appeared under the heading 'Reply, Rejoinder and Objection', as the matter relates to appointment on compassionate ground and no reply has been filed, the matter may be taken up for hearing.

Mr. A. De, the Departmental Representative on behalf of all the respondents, in his usual fairness, does not object to the prayer of the applicant

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for the matter being heard before the Single Bench.

In this application, Koustav Mukherjee, the applicant has prayed for several reliefs, the relevant portion of which is as under:

**“(a) An order directing the respondents to cancel, rescind, withdraw or set aside the purported letter dated 21.06.2019 being without due application of mind.**

**(b) An order directing the respondents to consider the applicant for his due compassionate appointment on immediate basis since being eligible and due.**

**(c) An order directing the respondents to consider and dispose the due representation dated 04.05.2018 in addition to similar others in the interest of justice.”**

It appears that the father of the applicant a ‘Bhumi Sahayak’ (BS) under the Sub-Divisional Land and Land Reforms Officer, Arambagh, Hooghly had expired on 12<sup>th</sup> November, 2014 while in service. At that time the applicant was aged about 14 years. It appears from the application that the mother of the applicant predeceased on 14<sup>th</sup> April, 2013. It appears that the applicant while a minor on 14<sup>th</sup> January, 2015 had before the Sub-Divisional Officer, Land and Land Reforms Officer, Arambagh, Hooghly, the respondent no. 3, filed an application for appointment on compassionate ground. However, after attaining majority, the applicant on 7<sup>th</sup> August, 2017 had filed a further application for appointment on compassionate ground. It appears that relying on the Notification dated 03.12.2013 an order was passed under Memo dated 21<sup>st</sup> June, 2019 by the Additional District Magistrate and District Land and Land Reforms Officer, Hooghly, the respondent no. 2, appearing at page 51A

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of the application, rejecting the application of the applicant. It is submitted by Mr. Karim that as while rejecting the prayer the said respondent had overlooked the Notification dated 1<sup>st</sup> March, 2016, particularly, the new clause “10(aa)” added to Notification No. 251EMP dated 3<sup>rd</sup> December, 2013, particularly the revised provision, ‘belated request’, the impugned Memo dated 21<sup>st</sup> June, 2019 be set aside and quashed and necessary direction be issued for appointment of the applicant on compassionate ground.

Mr. A. De, the Departmental Representative submits that if directed the State Authority will consider the application of the applicant for appointment on compassionate ground in the light of the revised provision contained in the Notification of 1<sup>st</sup> March, 2016.

Heard the learned advocates for the parties. It is clear that the Additional District Magistrate and District Land and Land Reforms Officer, Hooghly, while passing the order rejecting the application of the applicant for compassionate appointment contained in the Memo dated 21<sup>st</sup> June, 2019 had ignored the revised provision that is clause 10(aa), added to the Notification No. 251EMP dated 3<sup>rd</sup> December, 2013 issued pursuant to the Notification dated 1<sup>st</sup> March, 2016, Therefore, the Memo dated 21<sup>st</sup> June, 2019 cannot be sustained and is set aside and quashed. The application is allowed. Accordingly, the Additional District Magistrate and District Land and Land Reforms Officer, Hooghly, the respondent no. 2 is directed to constitute a Three Members Screening cum Enquiry Committee under the new clause 10(aa) within four weeks from the date of presentation of a copy of this order downloaded from the internet and website. The said Three Member Committee shall dispose of the matter regarding appointment of the applicant on compassionate ground by passing appropriate order on the basis of the

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guidelines contained in the new clause 10(aa) – particularly “belated requests” within five months and thereafter the respondent no. 2, on the basis of the recommendation of the Three Men Committee shall pass appropriate order within four weeks to be communicated to the parties.

(SOUMITRA PAL)  
CHAIRMAN

A.K.P./P.K.D.

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