

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 100 of 2024.

SRI LEONARD SITLING - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

01  
12.11.2024

For the Applicant : Mr. S. Ghosh,  
Mr. S. Bhattacharjee,  
Mrs. S. Das,  
Learned Advocates.

For the State Respondents : Mr. G.P. Banerjee,  
Learned Advocate.

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.

The applicant by filing this application has prayed for setting aside the impugned Memo No. 4109 dated 26.12.2023. This correspondence conveys the decision of the Department regretting the compassionate employment to the applicant. The relevant part of this impugned order is as under :-

*“.....With reference to the memo no. and subject cited above, I am directed to state the prayer of Shri Leonard Sitling, S/o. Late Dawamit Lepcha, Ex-Field Operative, Sericulture Demonst Farm, Kalimpong under the O/o the Assistant Director of Sericulture, Kalimpong on compassionate ground has no merit in terms of Note (c) of Para 6) (c) of Notification No. 251-Emp dated 03.12.2013 of Labour Department, Government of West Bengal. Thus, the claim of Shri Leonard Sitling for employment on compassionate ground is hereby regretted...”.*

Submission of Mr. Bhattacharjee, learned counsel appearing on behalf of the applicant is that the Respondent authorities were ignorant in not knowing that this particular proviso of Note (c) of Para 6 (c) of Notification No. 251-Emp dated 03.12.2013 has been deleted by Notification No. 26-Emp dated 01.5.2016. A Copy of Notification 26-Emp dated 01<sup>st</sup> March, 2016 available in this application makes it clear that this particular provision has been deleted.

Mr. Banerjee also agrees that this particular provision as cited by the Respondent authority does not exist since 01<sup>st</sup> March, 2016. This impugned order was

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passed by the Joint Secretary, Department of Agriculture on 26.12.2023.

From the submissions and the records, the Tribunal is satisfied that the very ground relied on by the Respondent authority is erroneous and is not supported by law any more. Therefore, this impugned Memo No. 4109 dated 26.12.2023 is quashed and set aside with a further direction to Respondent No. 2 – The Principal Secretary to the Government of West Bengal, Agriculture Department to consider the matter relating to the applicant's compassionate employment afresh taking into consideration the relevant extent rules within three months from the date of communication of this order. Let a copy of the reasoned and speaking order be communicated to the applicant within two weeks thereof.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

SkG/SM.