

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER

Case No. – OA 1217 of 2014

Paramita Halder - Vs - The State of West Bengal & Others.

Serial No. and
Date of order

19
17.01.2024

For the Applicant : Mrs. S. Mitra,
Learned Advocate. .

For the State Respondents : Ms. R. Sarkar,
Mr. S. DebRoy,
Mrs. A. Bhattacharya, .
Learned Departmental Representatives.

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

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

The applicant has prayed for setting aside the impugned order dated 10.04.2014. By passing this impugned order and giving reasons, the reasoned order rejected the prayer of the applicant for employment on compassionate ground. The impugned order relied on para 3 (d) and 10 (a) of the Labour Department Notification No. 251-Emp dated 03.12.2013. The Clause 3 (d) defines right to being a legal heir of a married daughter if she was unmarried on the date of the death. Clause 10 (a) deals with submission of such application within six months from the date of death of the employee.

Submitting on behalf of the Department, Ms. Sarkar states that the applicant had submitted the application more than two years from the date of death of her father. Further, the application was not found admissible because the applicant was a married daughter at the time of death of her father.

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Submission is that though the Notification No. 251-Emp dated 03.12.2013 has been amended subsequently but the rejection was done before publication of the amended Notifications No. 26-Emp dated 01.03.2016 and 419-Emp dated 04.11.2022. In view of the above, the applicant's application was considered with regard to Notification No. 251-Emp dated 03.12.2013. Since both the date of death of deceased employee as well filing of the application occurred prior to publication of the above notifications No. 26-Emp dated 01.03.2016 and 419-Emp dated 04.11.2022, therefore, these amended Notifications will not be relevant while considering the application.

Now in response to views expressed by Ms. Sarkar, Mrs. Mitra learned counsel for the applicant disagrees and submits that the reason for the delay of more than two years in submitting the proforma application is that being a married woman, she was not given the proforma application. As regards the applicant's eligibility for such employment despite being a married woman, Mrs. Mitra refers to Hon'ble High Court judgement in FMA-1277 of 2015 in the case of The State of West Bengal & Ors. Vs. Purnima Das & Ors. As per this judgement Mrs. Mitra submits that even a married daughter is entitled for such employment.

Disagreeing the submission of proforma application was not given to her, Ms. Sarkar submits that it is not in the records that the respondents did not co-operate in not giving a copy of proforma application to the applicant. Further, it is also evident that the applicant had not submitted even a plain paper application before the respondent authorities. Such submission of a plain paper application would have proved the point that the applicant had submitted her application within the time limit. As regards the question of applicability order of Hon'ble

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Supreme Court judgement, Ms. Sarkar submits that this judgement came only in the year 2022, much later after consideration of the application filed by the applicant. Therefore, by relying on the Apex Court Judgement at a later stage will not help the applicant, being a married woman, eligible for such employment on the date of rejection 10.04.2014. It has also not been substantiated that the applicant, as a married daughter had fulfilled other criterias for such employment as laid down by the Hon'ble Apex Court judgement.

Submission of Mrs. Mitra is that by another judgement of the Hon'ble High Court, such judgement covers the case of this applicant. Copies of such judgement will be presented for examination on the next date.

Let the matter appear under the heading Further Hearing on **10.07.2024.**

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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