

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. – OA 122 OF 2021

AJOY KUMAR GHOSH - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

For the Applicant

: Mr. Goutam Pathak Banerjee
Advocate

06

11.04.2022

For the State respondents

: Mr. Manujendra Narayan Roy
Advocate

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In this application, Ajoy Kumar Ghosh, the applicant, has prayed for several reliefs, the relevant portion of which is as under:

“a) A direction do issue upon the concerned respondent authorities to forthwith offer appointment in favour of the applicant on compassionate ground under exempted category after setting aside/cancelling/revoking the impugned letter of rejection dated 12th February, 2020 issued by the Commissioner to the Government of West Bengal, Home & Hill Affairs Department, being Annexure-‘D’ herein, and to command them to act strictly in accordance with law;”

It appears that the elder brother of the applicant Bijoy Kumar Ghosh while working as a Constable in West Bengal Police attached to the State armed Police (1st Battalion) expired on 2nd December, 2001 in a tragic accident leaving behind his mother, a widow, and the applicant as legal heirs and representatives. The applicant made a representation for employment under the

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exempted category before the Commandant State Armed Police, 1st Battalion, Barrackpore on 18th December, 2003 which was rejected by order dated 14th August, 2007. Aggrieved, the applicant filed an application, being OA-273 of 2012, which was disposed of by judgement delivered on 07th August, 2014, the relevant portion of which is as under:

“ Accordingly, we set aside the order under challenge with a liberty to the respondents, in particular the respondent No. 4 to consider the application for job on compassionate ground of Ajoy Kumar Ghosh in view of labour department’s order no. 567(100-Emp/Emp/1m-141/97 dated 18th November, 1997 and pass a reasoned order taking into consideration the scheme for compassionate appointment and the criteria to be fulfilled in such a case without delay, preferably within 6 (six) months and communicate the decision to the applicant within one month thereafter.”

Thereafter, pursuant to the order, the Commandant State Armed Police 1st Battalion, West Bengal, Barrackpore, considered the matter and passed an order, the relevant portion of which is as under:

“Considering the facts the Govt. may be moved with proposal to give him employment as per application under exempted category subject to observance of relevant condition and formalities as per rules.”

Subsequently, the State authorities requested the applicant to comply

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certain formalities, as evident from page 19 of the application, by memo dated 14th March, 2016. The Commandant requested the applicant to submit a written petition whether he was willing to be appointed as a General Duty Assistant (Group-D) post in the Health and Family Welfare, Government of West Bengal to which the applicant by letter dated 17th March, 2016 replied in the affirmative. However, the Commissioner, Government of West Bengal, Home and Hill Affairs Department, Police Establishment Branch, Howrah, by an intimation dated 12th February, 2020 to the Director General and Inspector General of Police, the respondent no. 3 “*regretted his inability to approve this case for appointment*” of the applicant under exempted category in the light of the notification dated 251 Emp dated 3rd December, 2013 of the Labour Department read with the subsequent amendments.

Heard Mr.G.P.Banerjee, learned advocate for the applicant and Mr.M.N.Roy, learned advocate for the State respondents.

The question is whether in view of the judgement passed by the Tribunal dated 7th August, 2014 in OA-273 of 2012 in the case of the applicant, the Commissioner, the respondent no. 2 was justified in passing the said order. Since, the Tribunal by the said judgement had directed the Commandant State Armed Police, 1st Battalion, West Bengal, the respondent no. 4 to consider the application for job on compassionate ground in view of the Labour Department’s order no. 567(100-Emp/Emp/Im-141/97) dated 18th November, 1997, the Commissioner erred in considering the case of the applicant in the light of the notification dated 251-Emp dated 3rd December, 2013. Therefore, the order dated 12th February, 2020, appearing at page 23 of the application, is set aside and quashed. The application is allowed. Accordingly, as the

ORDER SHEET

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applicant has consented for being appointed as Group-D staff in the Department of Health and Family Welfare, Government of West Bengal, the Additional Chief Secretary, Home and Hill Affairs Department, the respondent no. 1 is directed to issue appropriate order for appointment of the applicant on compassionate ground as Group-D staff under the establishment within eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal ignoring the age bar, if any, as the application for compassionate appointment has been pending since 2007.

(SOUMITRA PAL)
CHAIRMAN

BLR