

**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 172 of 2020**

**SUKUMARI DEVI & OTHERS - Vs - THE STATE OF WEST BENGAL & OTHERS.**

Serial No. and  
Date of order

For the Applicants : None

10  
04.04.2024

For the State respondents : Mr.Sankha Ghosh  
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.

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

The prayer in this application is for a direction to the respondent authorities to cancel the impugned order dated 20.08.2019 passed by the Principal Secretary of the Department. In terms of the direction of the Tribunal in OA-485 of 2018 dated 21.08.2018, the respondent had passed this reasoned order expressing its inability to transfer the appointment on compassionate ground to Sanjeev Kumar Mishra, the applicant No. 3 to his elder brother Saroj Kumar Mishra, the applicant No. 2.

It appears after the death of their father, Kamal Kanta Mishra, Ex-O.C.M., attached to the office of the B.D.O., Arambagh, Hooghly, an application was made to appoint Sanjeev Kumar Mishra, the youngest son. After completion of all necessary formalities, the Department approved in principle such an appointment in the name of Sanjeev Kumar Mishra. However, later, the mother, Sukumari Devi submitted an application on 07.11.2011 for cancellation of the order of appointment in

favour of Sanjeev Kumar Mishra and recommended such appointment in favour of her elder son, Saroj Kumar Mishra. According to her, the youngest son, Sajeew Kumar Mishra has neglected to look after this aged mother, whereas the elder son Saroj Kumar Mishra takes care of the mother. After giving reasons and relying on relevant provisos of rules, the respondent regretted such transfer of offer of employment on compassionate ground since no rule permits such a transfer. The specific rule cited is Rule 12 [Clause (5)] of the Notification No. 251-Emp dated 3<sup>rd</sup> December, 2013 which is “*An appointment offered/ made on compassionate ground cannot be transferred to any other person and any such request shall be rejected*”.

Disagreeing with the stated reasons that such offer of appointment cannot be transferred, Mr.A.K.Banerjee, learned counsel for the applicant disputes that till date, neither any offer nor any appointment letter was issued by the respondent authority in the name of Sanjeev Kumar Mishra.

Mr.S.Ghosh, learned counsel for the State respondents relying on the reasoned order submits that the department had approved the proposal in favour of Sanjeev Kumar Mishra and it was duly communicated to the D.P. & Ex-Officio Chief Engineer, WRDD vide No. 2025/WIO/N/12A-77/2010 dated 18.11.2010. Copy of this correspondence was also endorsed to Sanjeev Kumar Mishra.

On examination of the Memo. No. 2025 dated 18.11.2010, it has become clear that the Department had offered such an employment in favour of Sanjeev Kumar Mishra. It also becomes clear that such Memo. was communicated to Sanjeev Kumar Mishra in his address. Therefore, the argument of the applicant side that Sanjeev Kumar Mishra was not offered any employment falls flat. As has been submitted, Rule 12

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(Clause 5) of the Notification No. 251-Emp dated 03.12.2013 makes it clear that such offer of compassionate employment cannot be transferred to any other person. It has become clear that though such an offer was given to Sanjeev Kumar Mishra, but for reasons known only to the family, the mother of the applicant had prayed for transfer in favour of her elder son Saroj Kumar Mishra. The Tribunal makes it clear that rules cannot be tweaked and modified to suit the changing needs of the family. Further, the Scheme of Compassionate Employment is not an inherent and vested right of the family. It is only a goodwill gesture of the State to provide some relief to the family whose breadwinner has died. It does not bestow any permanent right on the family and cater to their changing family circumstances.

Thus, the prayer in this application for providing compassionate employment to Saroj Kumar Mishra in place of or in cancellation of the earlier offer to his younger brother Sanjeev Kumar Mishra is devoid of any merit. Accordingly, this application is disposed of without passing any orders.

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

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