

**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 172 of 2020**

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

Serial No. and  
Date of order

07  
14.07.2023

For the Applicants : Mr. A.K.Banerjee  
Advocate

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

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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, Sajeev 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.

Mr.Ghosh prays for accommodation to submit a copy of above or any other relevant document to substantiate the statement of the Principal Secretary on the next date.

Let the respondent department file copies of relevant documents to

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substantiate their statement that an appointment under compassionate ground was offered/ made in favour of Sanjeev Kumar Mishra on the next date.

Let the matter appear under the heading "For Orders" on 13<sup>th</sup> December, 2023.

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

BLR