

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Member (A)

Case No. – OA-201 of 2019

Bharati Majhi VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. S.K. Mitra, Learned Advocate,
<u>12</u> 28.06.2022	For the State Respondent	:	Mr. M.N. Roy, Learned Advocate.
	For the L & L R Deptt.		Mr. A. De, Mr. S. Deb Roy, Ms. R. Sarkar, Departmental Representatives.
	For the PAR Deptt.		Mr. G.P. Banerjee, Learned Advocate.

In this application, Bharati Majhi, the applicant is the wife of Late Bhakta Kumar Majhi, ex-Night Guard, attached to the office of the Revenue Inspector under Block Land and Land Reforms Officer, Purbasthali-II, Burdwan. The employee, late Bhakta Kumar Majhi died in harness on 17th November, 2011. The applicant within a year from the death of her husband made an application before the respondent authorities for her employment on compassionate ground. The application was considered in her favour and the Joint Secretary, Land and Land Reforms Department, Govt. of West Bengal informed the Director of Land Records and Surveys and Joint Land Reforms Commissioner, West Bengal on 07.12.2015 in the following words :-

- a) After careful examination of the matter, the undersigned is directed by the order of the Governor to say that the Governor has been pleased, in terms of

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Labour Department Notification No. 251-Emp dated
03.12.2013, to accord approval for offering
employment assistance to Smt. Bharati Majhi, wife of
Late Bhakta Kr. Majhi, against a vacancy of Group-D
post as Group-D in the exempted category of died-in-
harness as per 100 point roster under his control
subject to fulfilment of other formalities like police
verification, medical examination etc. as per rules...

As a follow up, the Director of Land Records and Surveys
and Joint Land Reforms Commissioner, West Bengal wrote to the
District Land and Land Reforms Officer, Burdwan on 21.12.2015
advising in the letter *“to appoint Smjt. Bharati Majhi in the post of
Group-D under his control subject to fulfilment of Police
Verification, Medical Examination etc. As per existing rules.”*

Therefore, the District Land and Land Reforms Officer,
Burdwan asked the applicant to appear before the authority on
13.01.2016 along with few documents like photo and relevant
documents in connection with the appointment on compassionate
ground. The applicant duly appeared before the District Land and
Land Reforms Officer on 13.01.2016 and submitted all the relevant
documents. This was also followed by the applicant’s Medical
Examination, in which she was declared fit by the Medical Board.
The Police Verification Roll was filled up and submitted by the
applicant along with Medical Certificate on 08.12.2016.

Surprisingly, after the approval and after completion of all

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the formalities, she received a letter from the District Land and Land Reforms Officer on 24.10.2017 informing the applicant that “Government has considered her “Unsuitable” for employment in the post of Group-D”, but no reason was mentioned as to why she was found unsuitable at this late stage. The applicant states that she was never convicted or charge sheeted by the Police in connection with any civil or criminal proceedings.

Since the above stated letter of rejection does not mention the reason why she was found unsuitable, she made a representation on 20.12.2018 before the respondent Nos. 3 & 4 for consideration of her case by withdrawing the impugned order dated 24.10.2017. However, this representation has remained unheeded and unreplied, till date.

Now before this Tribunal she has sought the following reliefs the relevant portion is quoted as under :-

a) “An order thereby quashing and/or setting aside the impugned order dated 24.10.2017 passed by the Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman, the respondent no. 3 herein thereby considering the applicant unsuitable for employment on compassionate ground (Annexure-A/8)”.

On 18.09.2019, the Division Bench of the Tribunal noted that although Home & Hill Affairs Deptt. has been made a party but none appears on its behalf and no reply has also been filed. It

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The State of West Bengal & Ors directs Respondent No. 5- the Principal Secretary, Home & Hill Affairs Department, Internal Security Branch, Secret Section, Govt. of West Bengal to provide information for such findings of unsuitability with regard to the applicant in a sealed cover by the next date. As directed, the respondents had submitted a note sheet in a sealed cover.

In the reply given by the Secretary, Land and Land Reforms Department, Government of West Bengal and the Additional District Magistrate and District Land and Land Reforms Officer, Burdwan Rajbari-I, Purba Bardhaman, the respondent No. 1 & 3 states the following points are stated :-

It appears from the record that the reason given for declaring her “Unsuitable” in her educational qualification, which is Class-V. Class VIII is the minimum qualification required for a Group-D post. It is also important to note that the LRC & Secretary of the L & L R Deptt. had condoned this criteria, as explained by the DLLRO in his reply as quoted below :-

- a) “That the educational qualification of Smt. Bharati Majhi was Class –V passed where for the appointment to the post of Group-D a candidate should be minimum Class VIII passed. However, under the compassionate employment scheme, a relaxation in educational qualification can be granted to eligible cases for appointment to the post of Group-D with the approval of the concerned Additional Chief Secretary/Principal

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Secretary/Secretary of the Department. Accordingly,
the Secretary, Land and Land Reforms Department,
Govt. of West Bengal condoned the deficiency in
educational qualification for Smt. Bharati Majhi on
02.09.2015, copy of which was submitted and kept in
record.

b) That the Additional District Magistrate and District Land
and Land Reforms Officer, the respondent No. 3 in
their replies submits that although such an offer of
employment, with due approval of the appropriate
authority, was made to Smt. Bharati Majhi, it is not
their fault for this employment not to have
materialized.”

This decision of the Government was communicated to the
applicant by the respondent No. 3 on 24.10.2017.

After hearing the learned advocates and perusing the
records, it appears that a serious travesty of justice has taken
place in this case. I find that a person’s legitimate right of
employment on compassionate ground was first granted and later
snatched from her, citing a frivolous reason and declaring her
“unsuitable”. It is also interesting to find how one arm of the
Government offers the employment and the other arm rejects it.

It is also absurd to find that when the Governor is pleased to
approve the employment, some official has the temerity to reject
it.

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The reason stated for this afterthought rejection of “unsuitability” due to her lack of qualifying education is of Class V in place of Class VIII. When the authorised officer, the Secretary of the Land and Land Reforms Department has condoned this, then why was it rejected by someone else.

The applicant has stated very clearly that she does not have any civil or criminal proceedings in any court against her. To support her claim, the Police Report on her verification, reported by Senior Superintendent of Police (C), Intelligence Branch clearly states that “there is nothing adverse against her either in Intelligence Bureau or in the Superintendent of Police, D.I.B. Burdwan.”

I find serious miscarriage of justice has been done to the applicant by first approving her employment and later, on a very weak ground, rejecting what was approved. Therefore, I do not find any merit to agree with the respondents in denying her later what was offered earlier.

Thus, the impugned order Momo 34 (243)/E/2014 dated 24.10.2017 of Additional District Magistrate and District Land & Land Reforms Officer, Purba Bardhaman is quashed and set aside. The reliefs sought by the applicant in the prayer in this OA-201 of 2019 are allowed. The respondents 1, 2 & 3 are directed to issue her the final Appointment Letter to Bharti Majhi and allow her to join without any further hindrances, within a period of four weeks from the date of receipt of this Order to be downloaded from the

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website of the Tribunal.

The matter is disposed of with no order as to costs.

SAYEED AHMED BABA
MEMBER (A)

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