

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 210 of 2023

Sisir Mandi - Vs - The State of West Bengal & Others.

Serial No. and
Date of order

04
19.12.2023

For the Applicant : Mr. M.N. Roy,
Mr. S. Adhikary,
Learned Advocates.

For the State Respondents : Mr. S.N. Ray,
Learned 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 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 counsel for the parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order no.1760 dated 12th June, 2018 of the respondent authority. By this order, the respondent authority had regretted the application for employment under compassionate ground. Submission of Mr. M.N. Roy is that this impugned order while rejecting the application failed to cite any specific ground as to why the application cannot be considered. The relevant part of the impugned order is as under :-

“...It appears that the candidate has not fulfilled the required conditions as laid down in the said Notification for being eligible to be considered for appointment under exempted category.

Accordingly, I am directed to state that the Government regrets its inability to consider the case for appointment under the exempted category in the light of the guideline contained in Notification No. 251-Emp, dated 03.12.2013 of Labour Department read with subsequent amendments...”.

Responding on behalf of the respondents, Mr. S.N. Ray, learned

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counsel opposes the admission of this application on the ground that the impugned order being challenged in this application is dated 12th June, 2018, whereas this application was filed in this Tribunal on 29th March, 2023, a good five years later. In response, Mr. M.N. Roy draws my attention to memo 969 dated 20.4.2021. This memo appears to be a direction by the Superintendent of Police, Jhargram to I.C. Belpahari P.S. advising him to hand over a copy of the impugned memo 1760 to the applicant, Sisir Mandi. Submission of Mr. Roy is that this impugned order though passed in the year 2018 was communicated to the applicant only in the year 2021. So far delay in filing this application after 2021, Mr. M.N. Roy refers to an Apex Court judgement allowing belated filing of applications in the wake of Covid-19 pandemic situation.

In the opinion of the Tribunal, although the question of admissibility due to limitation has been raised by Mr. S.N. Ray, but it is evident from the order of this Tribunal that this Tribunal dated 17.4.2023 that this application was heard and admitted. The point of limitation or admissibility of this application was not raised then while hearing this matter.

From the submissions of the learned counsels and the records in this application it is the finding of this Tribunal that the impugned order dated 12.06.2018 rejecting the application for employment on compassionate ground does not state any specific reason why the application was to be rejected. The respondent authority loosely uses the words "Required Conditions" not fulfilled. It is the responsibility of the respondent authority to express and communicate clearly to the applicant the reason why his/her application is not eligible under a particular proviso of a particular Rule. In this case, though, the respondent has quoted Notification 251-Emp dated 03.12.2013 but has not cited any

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specific provision of the said Notification which hits the prayer of the applicant.

On close examination of this Notification, the Tribunal finds that it has a total of 7 pages and contains a total of 14 titles including a para 6 on Eligibility for compassionate employment. This particular para of eligibility itself has three sub clauses.

Considering that impugned order rejecting the application is not based on any particular clause of the Notification 251-Emp dated 03.12.2023, the Tribunal finds the impugned order is quashable and, therefore, it is quashed with a direction to Addl. Chief Secretary, Home & Hill Affairs Deptt. to reconsider the application of the applicant for compassionate employment and pass a speaking and reasoned order giving specific reason under relevant Rule within three months from the date communication of this order and communicate the same to the applicant within two weeks thereof.

Accordingly, the application is disposed of.

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

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