

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 231 of 2024

SUBHRA MONDAL -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. Ranjit Kumar Mondal,
Learned Advocate
For the State Respondents : Mr. Gautam Pathak Banerjee,
Mrs. Sunita Agarwal,
Learned Advocates

4
07.03.2025

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.

The prayer in this application for setting aside the impugned order dated 27th February, 2024.

In terms of a direction of this Tribunal earlier on 10.07.2023 in OA-215 of 2023, the Principal Secretary, Department of Food and Supplies passed this impugned order. After examining the matter in detail and giving his observations, the Principal Secretary came to the conclusion that the applicant is not entitled to any appointment on compassionate ground. The applicant by filing this application has challenged the validity of this order.

Rajib Kumar Mondal, an accountant in the office of Subdivisional Controller (Food & Supplies) Kandi, Murshidabad died while in service on 10.05.2017 leaving behind Parvati Mondal, wife and married daughter Subhra Mandal, the present applicant.

The Principal Secretary, in his reasoned order, regretted her prayer for an employment under compassionate ground reasoning that "*the petitioner was a married daughter of the deceased employee and she stood married on the death of the deceased employee and as such she does not qualify as a "Dependent Family Member" for the compassionate appointment as envisaged in clause 3(d) of Notification No.251-Emp dated 03.12.2013.*

In view of the above, I am of the opinion that the petitioner is not entitled to any relief on compassionate ground. Object of compassionate appointment is to enable the family to tide over the sudden crisis of financial distress due to death of the sole bread earner of the family. Being a married daughter, it is

Form No.

Case No. **OA 231 of 2024**

Vs.

The State of West Bengal & Ors.

logically evident that she has some dependable means of subsistence at the time of death of her father.”.....“Therefore, compassionate appointment cannot be offered to the applicant, Smt. Subhra Mondal”.

From the above quotes of the reasoned order it is amply clear that the Principal Secretary was not aware of the notification No.Labr /419/Law dated 04.11.2022. The reasoned order was passed on 27.02.2024 and communicated to the applicant by the Joint Secretary on 01.03.2024. Therefore, at the very material time of passing the reasoned order and communicating it to the applicant, the notification No.Labr /419/Law dated 04.11.2022 was very much in existence. This notification had modified some provisions of the notification No.251-Emp dated 03.12.2013. The C1 3(b), 3(c) and 3(d) of Notification No.251-Emp was amended to include (c) daughter. The earlier provision at (d) married daughter who on the date of death or incapacitation was unmarried has now been replaced by (c) daughter including legally adopted daughter before death or incapacitation or missing. It is thus clear that the applicant, though a married daughter at the time of death of her father, was fully covered to apply for such an employment under compassionate ground. Although the date of death of the father and her marriage precedes the notification No.Labr /419/Law dated 04.11.2022, but the fact remains that at the time of consideration of her application, the respondent authority ought to have referred to this notification and therefore, not rejected her application on the mere ground that the applicant was a married daughter at the time of death of her father.

Having corrected the ground for such rejection by the respondent authority, it is equally important to rely on judgement in *F.M.A. 1277 of 2015* : “*The State of West Bengal & Others Vs. Purnima Das and Ors.*” and also in *W.P.S.T. 80 of 2022* : “*Antara Banerjee Vs. The State of West Bengal & Ors*”. The relevant portion of the judgement is as under:

“113. Consequently, the offending provision in the notification dated April 2, 2008 (governing the cases of Arpita

Form No.

Case No. **OA 231 of 2024**

Vs.

The State of West Bengal & Ors.

and Kakali) and February 3, 2009 (governing the case of Purnima) i.e. the adjective 'unmarried' before 'daughter', is struck down as violative of the Constitution. It, however, goes without saying that after the need for compassionate appointment is established in accordance with the laid down formula (which in itself is quite stringent), a daughter who is married on the date of death of the concerned Government employee while in service must succeed in her claim of being entirely dependent on the earnings of her father/mother (Government employee) on the date of his/her death and agree to look after the other family members of the deceased, if the claim is to be considered further."

From the above judgement, it flows that though married daughters are also entitled to apply, but such application has to be examined to determine and be satisfied that such married daughter was entirely dependent on the earnings of her parents on the date of death of the employee. Further, such married daughter as an applicant has to give an undertaking to look after other family members of the deceased employee.

In the light of above observation and the judgements cited, the Tribunal cannot sustain the reasoned order passed by the Principal Secretary in his order No.1 dated 27.02.2024 rejecting the prayer of the applicant primarily on the ground that she was the married daughter at the time of death of her father. The same reasoned order is set aside with a further direction to the Principal Secretary to reconsider the matter in the light of the above observations of this Tribunal and in particular, the judgement of the Hon'ble High Court in *Purnima Das & Ors. (supra)*.

This application is disposed of.

SCN.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)