

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 265 OF 2023

ABUL QUISE & ANOTHER - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicants : Mr. A.A.Mondal
Advocate

04
08.08.2024

For the State respondents : Mrs. Sunita Agarwal
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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order dated 22.03.2023 passed by the respondent no. 2 rejecting the application for appointment on compassionate ground. The applicant's mother was a Sweeper who died-in-harness working in R.G.Kar Medical College & Hospital. In terms of a direction of this Tribunal in OA 504 of 2020, the respondent passed the reasoned order and rejected the prayer for appointment on compassionate ground for various reasons, the primary reason being that the deceased employee was declared permanently incapacitated by a Medical Board held on 29.08.2018. Since her own superannuation was due on 31.12.2018, only after four months from such declaration of medical incapacitation, her legal heirs were not eligible for appointment on compassionate ground.

The reasoned order passed on 22.03.2023 regretting the prayer on the above ground had relied on a clause (b) of Notification 251-Emp. dated 03.12.2013. The relevant part is as under:

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“In case of premature retirement the concerned employee had at least two years of service left to reach the normal age of superannuation.”

The fact that the Medical Board declared her permanently incapacitated on 29.08.2018 is not in dispute. Therefore, it is also not in dispute that the employee who was declared permanently incapacitated on 29.08.2018 and having superannuated on 31.12.2018 did not have two years of service left. From the above observation, it is clear that this proposal for employment on compassionate ground could not fulfil the requirement criteria as laid down in Notification 251-Emp.

Mr.Mondal, learned counsel, though agree with the above observation, has been pointing out that the applicant’s mother, Salma Bibi, now deceased, had been praying before the respondent authorities for permission to retire on medical ground more than two years before her superannuation. It was not her fault that such representations were considered later and she was declared permanently incapacitated just four months before her superannuation.

Having heard the submissions and considering the facts and circumstances of this case, the Tribunal does not find anything wrong on behalf of the respondent authority to pass such reasoned order regretting an employment on compassionate ground on behalf of the applicant. The application is disposed of without passing any orders.

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

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