

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. – OA 270 OF 2019

SUKESHI RAJAK - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mrs. Sonali Mitra Advocate
<u>03</u> 26.07.2022	For the State respondents	:	Mr. Aniruddha De Ms. Ruma Sarkar (Departmental Representatives)

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

As prayed for by Mrs.S.Mitra, learned advocate appearing for the applicant, leave granted to add the Secretary, Department of Land and Land Reforms and Refugee Relief and Rehabilitation, Government of West Bengal, Kolkata as a party respondent by amending the cause title of the original application in course of this day.

At the very outset, Mrs. Mitra, submits that she is not pressing prayer VI (A).

In this application, the applicant, has prayed for certain reliefs, the relevant portion of which is as under:

“(B) Appropriate order be passed setting aside the impugned Memo no. 4360-LL/O/1E-28/18DE dated 20.08.2018 issued by the Joint Secretary, Government of West Bengal, Department of Land & Land Reforms and R.R & R.D.E. Branch as well as Labour Department’s

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Observation Vide U.O. no. 64EMP dated 10.08.2018;

(C) Appropriate order be passed directing the respondent authorities to grant compassionate appointment in favour of the applicant;”

The impugned memo. issued by the Joint Secretary, Department of Land and Land Reforms and R.R. & R. Government of West Bengal, the respondent no. 2 to the District Magistrate and Collector, Purulia, the respondent no. 5 is as under:

“Subject: Employment Assistance in favour of Smt. Sukeshi Rajak, married D/O late Amulya Rajak, Ex-Group ‘C’ employee under Purulia Collectorate, on compassionate ground.

In inviting a reference to his Memo. No. 757/Estt. dated 12.06.18, the undersigned is directed to inform him that this Department is not in a position to consider the instant prayer of compassionate appointment as per Labour Department’s observation vide U.O. No. 64 EMP dt. 10.08.2018 (copy enclosed).”

In this context, it is appropriate to set out the note of the Special Secretary, dated 6th August, 2018 and the Principal Secretary, dated 7th August, 2018 which is as under:

“Smt. Sukeshi Rajak is no longer a family member of

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deceased Govt. Employee as she was married on July 2009. The date of death of Govt. Employee is 28.08.2015. There is no provision in the Deptt,s Notification No. 251 clause 3(d) that a married daughter (at the time of death of deceased) may be considered as family member of deceased employee and may get appointment on compassionate ground.

The instant prayer may be regretted by the Administrative Department.”

It is submitted on behalf of the applicant that since the order rejecting the prayer of the applicant for compassionate appointment is contrary to the principles of law laid down in the judgement passed by the High Court on 13th September, 2017 in C.A.N. 12495 of 2014 in F.M.A. 1277 of 2015 (The State of West Bengal & Ors. v. Purnima Das & Ors.), the impugned order may be set aside and order be passed directing the respondents to consider the matter afresh.

Mr.A.De, the Departmental representative for the Land and Land Reforms and R.R. & R., in his usual fairness submits that since the issue is covered by the judgement in the State of West Bengal Vs. Purnima Das (supra) direction may be issued upon the respondents to consider the matter afresh.

In view of the law laid down by the High Court in the State of West Bengal Vs. Purnima Das (supra) particularly in paragraphs 12 and 13 thereof, the impugned memo. dated 20th August, 2018, being Annexure- 'F' to the application, is set aside and quashed. The application is allowed.

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Accordingly, the Secretary, Department of Land and Land Reforms and R.R. & R. Government of West Bengal, the added respondent no. 1(a) is directed to consider the matter afresh and shall pass a reasoned order to be communicated to the parties within fifteen week from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing, after making necessary inquiry and after considering the records.

(SOUMITRA PAL)
CHAIRMAN

BLR