

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- 28 of 2023

Kartick Biswas **VERSUS – The State of West Bengal & Ors.**

Serial No. and Date of order For the Applicant : Mrs. M. Roy (Dey),
Learned Advocate.

For the State Respondents : Mr. S.N. Ray,
Learned Advocate.

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10.08.2023

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 learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has prayed as an interim relief setting aside the impugned order 436 dated 01.12.2022 which was communicated to the applicant. This reasoned order was passed in pursuance of the Tribunal's direction in OA-40 of 2019 relating to appointment on compassionate ground of the applicant. As it appears from the reasoned order that the respondent, Secretary, Public Works Department after detailed consideration of the order regretted the application on two specific grounds :-

- a) The applicant did not fulfil the criteria of educational qualification since he was only Class VI passed and
- b) The present age of the applicant is more than 45 years.

Submission of Mrs. Roy (Dey) is that the respondent did not consider the fact that due to their latches the applicant crossed the age of 45 years at the time of consideration.

On perusal of the records in the application, it appears that the deceased father of the applicant died in harness on 11.02.2011. At the time of the death of the deceased employee, the applicant was 36

years 11 months and 23 days and was 48 years 9 months and 12 days at the time of consideration of his application for compassionate employment. Though there is a provision for relaxation of both educational qualification and maximum age of appointment, however, such representations were never preferred by the applicant before the respondents. Cited by the respondent in the reasoned order, point 7 of West Bengal Services (Group-D) Recruitment Rules, 2009 is a proviso by which the upper age limit can be relaxed by five years for candidates belonging to Scheduled Caste candidates. The applicant belongs to the SC category. However, no such representation was filed before the concerned authority for such relaxation. Similarly, the educational qualification required for such employment could have been relaxed if such representation was furnished. However, as admitted by Mrs. Roy (Dey), no such representation was furnished by the applicant.

In view of the above facts and circumstances, the Tribunal finds that the respondent was correct in regretting this appointment on compassionate ground on two specific reasons as mentioned in their reasoned order. Since the rules of this scheme do not allow any applicant to be given an appointment under compassionate ground if the applicant does not meet the educational qualification and age. The Tribunal did not find any merit in the prayers of this application.

Accordingly, this application is disposed of without any orders.

sc

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)