

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Member (A)

Case No. – OA-286 of 2022

Antara Banerjee VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Ms. A. Shaw,
Learned Advocate.

03
20.07.2022

For the State
Respondents : Mr. G.P. Banerjee,
Learned Advocate.

Despite service of notice, none has appeared on behalf of the respondents. Mr. G.P. Banerjee, who normally appears for the State is requested to represent the State in this matter. Ld. L.R. is directed to regularise his service.

In this application, the applicant prays for setting aside the order of the respondent dated 31.03.2022. Upon death of her father on 27.05.2015, the applicant submitted an application for compassionate employment. The same was considered by the respondent and rejected on the ground that the applicant was already a married daughter at the time of her father's death. The applicant, not satisfied with the rejection of her application, moved this Tribunal for setting aside the impugned order through OA-321 of 2021, The Tribunal after considering the matter quashed the impugned order and directed the respondents to re-consider the application. Thereafter, on 31.03.2022 the respondent considered her application in pursuance of the Tribunal's direction and again rejected it on several grounds, relevant portion of which are as under :-

a) "It transpired that there is no evidence that the applicant resided in the same joint family of

her deceased father before her father's death rather she has sworn in her affidavit before the Hon'ble WBAT that she has her permanent residence at Vill. Mulagram, P.O. Malamba, P.S. Monteswar, Purba Bardhaman i.e. her matrimonial home which is different from the address of the deceased employee which is at Vill-Haladharpur, P.O. Mondalgram, P.S. Memari, Dist. Purba Bardhaman. Moreover from the record of the Aadhar Card and voter identity card of the applicant, it is clearly proved that her permanent address is her matrimonial house where she resides with her husband. The only document produced by the applicant in support of her claim of living in her father's house is a Xerox copy of her marriage certificate, but such marriage certificate was issued on 05.03.2021 i.e. six years after the death of the deceased employee. The production of the marriage certificate is only a means of fabricating evidence. Thus, it can easily be concluded that the applicant was never financially dependent upon her father after her marriage.

And, Whereas, from the said hearing it was also transpired that the husband of the applicant is

an able bodied young man who is an agriculturist by profession and furthermore there is also no plea or evidence of any matrimonial desertion caused upon the applicant by her husband. The husband of a woman being able bodied is under legal obligation to maintain his wife which also falls under the constitutional sweep of Article 15 of the Constitution of India and in no case a married woman can be said to be financially dependent upon her father if not proved to be otherwise. The applicant has never adduced or produced any material evidence to rebut the presumption that she was never dependent upon her deceased father.”

Mr. Banerjee, learned advocate for the state submits that the applicant has failed to establish that she, although, a married woman, was totally dependent on her deceased father. She has not proved that after her father’s death she found herself in further financial dire straits, therefore, a compassionate employment would help her to mitigate her economic condition.

Mr. Banerjee also submits that there is no evidence presented by the applicant to prove that although, married, she was otherwise economically dependent on her deceased father. Moreover, there is nothing to show that there is any matrimonial discord, hence her dependency on the parents.

Having heard learned advocates of both the sides and considering the facts and circumstances of the case, I am of the view that the applicant has not been able to prove her dependency on her deceased father.

The applicant has also not stated that she has any marital discord and thus not being looked after by her husband. Moreover, her residence continues to be with the in-laws. It is also not a case where the widow, her mother, will be cared by the applicant daughter. Therefore, in my view, it is not a case, where to mitigate the sufferings of a family of the deceased an employment is offered as a gesture of compassion. It is rather a case, where a married daughter, without any dependency on the earnings of the deceased father, where there does not appear to be any marital discord, where a case is not seen for the widow to be looked after by the married daughter, applies for a job on compassionate ground. Therefore, the case is not maintainable and should be disposed of without any orders.

The case is dismissed and the matter is disposed of.

SAYEED AHMED BABA
MEMBER (A)