

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-313 of 2022

Serial No. and Date of order	Bikash Sarkar For the Applicant	VERSUS	The State of West Bengal & Ors.. Mrs. Sonali Mitra, Learned Advocate.
<u>04</u> 07.11.2022	For the State Respondents	:	Mr. R.K. Mondal, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

In this application the prayer is for setting aside the impugned order of the respondent dated 26.07.2021. Submission of the learned advocate for the applicant is that the mother of the petitioner had applied for compassionate appointment on behalf of the applicant at the time of the death of the deceased employee in the year 2008 when the applicant was 14 years old.

After processing the proposal and based on the enquiry report of the committee, the respondent, Director of Small Savings (West Bengal) on 26.07.2021, rejected the application on the ground that the applicant is not eligible under rule 6 of Notification No. 251-Emp. since the income of the family including Rs. 25465/- as salary of the mother and Rs. 4513/- as family pension exceeds more than 90% of the gross salary of the deceased employee.

Challenging the impugned order, Mrs. Mitra refers to

page 28 in which it appears that Dy. Director, Small Savings, Malda had issued a letter on 28.09.2010 to the applicant, Bikash Sarkar asking for his consent for employment as Group-D staff. The relevant portion is quoted hereunder :-

“As per Memo No. 339(19)-SSD-Date 08.06.2010. (1E-32/50 (Pt. -I) of Director, Small Savings, & E.O. Joint Secretary, Finance Deptt. Writers Buildings, Govt. of West Bengal, he is requested to submit his consent letter whether he desires to be appointed to the Group-D post under Small Savings, Directorate Finance Deptt., Govt. of West Bengal on Compassionate Ground within 10 days from the date of receipt of this letter.”

As a reply, the applicant had submitted his consent for the employment on 12.10.2010.

It appears that following the laid down procedure, the application was processed based on an enquiry report and subsequently by passing a reasoned order rejected the application. However, the reasoned order rejecting the application was passed by the respondent No. 2, Director of Small Savings after a gap of 11 (eleven) years from the submission of the enquiry report by the enquiry committee. Interestingly, after submission of the enquiry report not recommending the case, the Respondent No. 3, the Dy. Director of Small Savings, Malda issued a letter on 28.09.2010 appearing at page 28 asked for “consent” of the applicant for appointment as a Group-D. The contents of the letter have been quoted above. It is also noted that the

Respondent No. 3 was also a member of the Enquiry Committee. Thus, on one hand the application is rejected after a gap of 11 years from the date of submission of the Enquiry Report and on the other hand, consent of the application was sought even after the Committee did not recommended the appointment.

In view of the above contradictory outcomes, the respondent No. 2 is directed to submit a clarification whether the Dy. Director, Small Savings, Malda was an authority to offer an employment by asking the consent of the applicant. It is clear that enquiry committee had submitted its report not recommending the case more than five months earlier. If the issue to provide employment was rejected based on enquiry report, which was submitted eleven years ago, then how can another officer, Dy. Director, Small Savings, Malda had issued a letter asking for his consent. The reply clarifying the above should be submitted by the respondent No. 2, Director of Small Savings within a period of six weeks from the date of communication of this order.

Let the matter appear on **09.01.2023** for filing of reply. Rejoinder by the applicant, if any, in the meantime.

sc

SAYEED AHMED BABA
MEMBER (A)