ORDER SHEET

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 313 of 2022

Bikash Sarkar -- **VERSUS –** The State of West Bengal & Ors.

Serial No. and Date of order

07
30.03.2023

For the Applicant : Mrs. S. Mitra, Ld. Advocate.

For the State respondent : Mr. R.K. Mondal, Ld. 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.

AT A GLANCE

Sl. No.	Date	Matter
1	30.03.2008	Death of the Employee
2	19.02.2010	Enquiry Report submitted to Director
3	28.09.2010	"Consent" of the Applicant sought
4	26.07.2021	Regret of the Application by the Director

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.

Later on 26.07.2021, the application was rejected and communicated to the applicant. Unfortunately, such 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 which apparently did not recommend the case, the Respondent No. 3, the Dy. Director of Small Savings, Malda issued a letter on 28.09.2010 appearing at page 28 asking for "consent" of the applicant for appointment as a Group-D. 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 is sought, even after the Committee did not recommended the appointment.

In view of the above contradictory outcomes, not only the application for compassionate employment was turned down after a gap of eleven years, but also the hope and expectation of the family nurtured, after being asked for consent for appointment to Group-D, was completely shattered. It was not compassion, but a punishment inflicted on the applicant and his family by these officials. The Tribunal on the last hearing on 07.11.2022 had directed the respondent to file a reply clarifying the above contradiction. Unfortunately, today even after a gap of four months, no such

reply has been filed. Hence, the Tribunal is compelled to request the Additional Chief Secretary, Department of Finance to intervene and cause an enquiry about such lapses on the part of the officials of the Directorate.

The Tribunal is also compelled to draw the attention of the Chief Secretary in this matter because many of the compassionate employment cases the Tribunal deals also suffer from similar results. Therefore, the Chief Secretary is requested to pass suitable directions on the Departments so that the long gap between the date an application is submitted and the final decision arrived by the authority, is narrowed down considerably, preferably within six months.

Similarly, it is also observed that the Three-men Enquiry Committee who assess the application are not aware of the relevant Notifications. For instance, if an application which is not admissible or the applicant is not entitled as per the relevant Notifications, such fact should be brought to the notice of the applicant at that point of time itself, instead of waiting for number of years for the final authority to pronounce the decision against the application. Such provisional decision can be taken by the Three-men Enquiry Committee itself on the basis of assessment and scrutiny of their documents since the Three-men Enquiry Committee are all senior officers.

Let the matter be heard under the heading **"For Orders"** on **22.09.2023**.

Let the Registry arrange furnishing a copy of this order to the Chief Secretary and the Additional Chief Secretary, Finance Department within one week from the date of this order.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)