

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. – OA 346 of 2020

Anwasha Das - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order For the Applicant : Mr. D. Kundu,
Advocate.

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10.09.2021 For the State respondents : Mr. S. Ghosh,
Advocate.

In this application, Anwasha Das-, the applicant, has prayed for several reliefs, the relevant portion of which is as under :

“(a) An order commanding the respondents, their men, agent and assigns to forthwith to consider the application made by the applicant for compassionate appointment by setting aside the impugned order dated 04.02.2020.

(b) An order commanding the respondents to appoint the applicant on compassionate ground in place of his father.

(c) An order directing the respondent authorities to show cause as to why the impugned order dated 04.02.2020 should not be quashed and/or set aside and should not be considered the application of the applicant afresh.”

It is submitted by Mr. D. Kundu, learned advocate for the applicant that the order dated 4th February, 2020 issued by the Joint Secretary, Public Works Department, Government of West Bengal, the respondent no. 2 is illegal and is liable to be set aside as it is in violation of the Notification no. 251-EMP dated 3rd December, 2013 issued by the Government of West Bengal, Labour Department, particularly paragraph 6 Note (c) thereof.

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Mr. S. Ghosh, learned advocate for the State respondents submits that the order dated 4th February, 2020, under challenge, is just and proper.

Heard learned advocates for the parties. The relevant portion of the order under challenge is as under :

“ 4. Provision laid down under sl. No. 7 of Memo. No. 3326-F dt. 05.05.2009 read with amendment under sl. No. 3 of Memo No. 4184-F(P) dt.08.08.2016 of Finance Department, Govt. of West Bengal Govt. of West Bengal (West Bengal Services (Group-D Posts) Recruitment Rules, 2009) as such : “The age of the candidate shall not be less than 18 years and (after amendment) more than 40 years...” ”.

5. In the instant case: date of death-in-harness of the Govt. employee Late Shyamal Kumar Das is 27.01.2017. Date of birth of the applicant Miss Anwasha Das is 06.02.1999.

6. So on the date of death of the Govt. employee, age of the applicant was 17 years 11 months & 21 days.

7. There is no provision in the existing Govt. Rules for compassionate appointment for relaxation in minimum age of a candidate applying for appointment on compassionate ground.”

Note (c) to the Notification no. 251-EMP dated 3rd December, 2013 which is still in force, is as under :

“(c) The dependent member shall invariably attain the minimum age for recruitment within six months from the date of death or incapacitation of the concerned employee.”

Since the father of the applicant Shyamal Kumar Das expired on 27th January, 2017 and on the date of the death of the Government

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employee, the applicant, born on 6th February, 1999, was 17 years 11 months and 21 days and as she attained the minimum age for recruitment within 6 months from the date of death of her father, the order dated 4th February, 2020 under challenge appearing at page 37 of the application, cannot be sustained and is thus set aside and quashed. Hence, the original application is allowed.

Accordingly, the Principal Secretary, Public Works Department, Government of West Bengal, the respondent no. 1, is directed to consider the application and give appointment to the applicant in accordance with law, maintaining the seniority and roster, if otherwise eligible within one year from the date of presentation of a copy of this order downloaded from the website of the Tribunal.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN

Rajib