

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. – OA 36 of 2021

SHIBANSHU DEY

- VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

03
10.03.2021

For the Applicant

: Mr.G.Dinda
Advocate

For the State respondent

: Mr.G.P.Banerjee
Advocate

The matter is taken up by the single Bench pursuant to the Notification No.949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

Though by order dated 1st February, 2021, the matter was directed to appear today under the heading “Admission Hearing” and as the matter has not appeared in the list and on being mentioned by Mr.G.Dinda, learned advocate for the applicant, the matter has appeared in the supplementary cause list published today by the Registry under the heading “Admission Hearing”.

At the very outset, Mr.Dinda, submits that leave may be granted to correct the cause title so far as the respondent no. 2 (a) of the application is concerned.

In this application, Shibanshu Dey, the applicant, has prayed for several reliefs, the relevant portion of which is as under:

“ a) To direct the respondent authorities to set aside and/ or quash and/ or cancel the order being No. 357-PL/PB/2P-270/2019 dated 05.02.2020 passed by the Secretary (Coordination) to the Govt of West Bengal being Annexure – “I” forthwith and after set aside and/ or quashing and/ or cancelling the same directing the respondents for

taking steps to give compassionate appointment in died in harness category to the applicant to the post of Constable or any other post commensurate to his qualification forthwith;”

It appears that the father of the applicant, a constable had expired while in service on 15th April, 2010. The mother of the applicant first made an application on 19th July, 2010 for appointment of her son on compassionate ground after attaining majority. Thereafter the applicant on 19th January, 2014, after becoming major, submitted an application for appointment on compassionate ground. However, it appears that the claim of the applicant was rejected by the Secretary (Coordination), Government of West Bengal, Home and Hill Affairs Department, the respondent no. 2(c) by order dated 5th February, 2020, appearing at page 35 of the application, the relevant portion of which is as under:

“It appears that the candidate was only 15(fifteen) years 23 (twenty-three) days old on the date of death of deceased employee. So the proposal does not fulfil the required conditions as laid down in the Notification No.251-Emp dated 03.12.2013 read with Notification No. 26-Emp dated 01.03.2016 of Labour Department, Government of West Bengal for being eligible to be considered for appointment under exempted category.

Accordingly, the Government regrets its inability to approve this case for appointment under the exempted category in the light of the guideline contained in Notification No. 251-Emp dated 03.12.2013 of Labour Department read

with subsequent amendments.”

It is submitted by Mr.Dinda, that while passing the order, the respondent authorities did not consider the Notification dated 1st March, 2016 particularly 10(aa) [new clause] added to Notification No. 251-Emp. Dated 03.12.13 and more particularly with regard to the guidelines in under the heading “BELATED REQUESTS”.

Mr.G.P.Banerjee, learned advocate for the State respondents submits, if directed, the respondent authorities will consider the matter afresh in the light of the Notification dated 1st March, 2016.

Since I find that while passing the order impugned the respondent no. 2 (c) did not take into consideration the relevant portion of the Notification dated 1st March, 2016, particularly relating to 10(aa) [new clause] added to Notification No. 251-Emp. Dated 03.12.13 and specially the stipulations under “BELATED REQUESTS” the said order dated 5th February, 2020 is set aside and quashed. The application is allowed. Accordingly, the Principal Secretary, Government of West Bengal, Department of Home and Hill Affiars, the respondent no. 2(a) is directed to consider the matter afresh in the light of the Notification dated 1st March, 2016, particularly the revised provisions relating to 10(aa) [new clause] added to Notification No. 251-Emp. Dated 03.12.13 with regard to “BELATED REQUESTS” and shall pass a reasoned order after verifying the records within 15 weeks from the date of presentation of a copy of this order downloaded from the Internet/website.

BLR

(SOUMITRA PAL)
CHAIRMAN