

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-365 of 2022

Serial No. and Date of order	Manasi Roy For the Applicant	VERSUS – The State of West Bengal & Ors.	: Mrs. Saswati Bandyopadhyay, Learned Advocate.
<u>03</u> 03.08.2022	For the State Respondents		: Mrs. Sunita Agarwal, Learned Advocate.

In this application the prayer of the applicant is for setting aside the impugned order of the respondent which has rejected her representation for compassionate employment after the death of her mother from COVID-19 on 28.06.2020. The applicant submitted a plain paper application on 26.08.2020 praying for compassionate employment for herself. The respondents duly considered and rejected the application on the ground that at the time of her mother's death, she was already married.

Mrs. Agarwal submits that the rejection was made due to the fact that at the time of mother's death, she was already a married daughter and as per Notification of Finance (Audit) Deptt. dated 12.08.2020 'near relation' means "Married daughter, who on the date of death/incapacitation was unmarried".

Mrs. Agarwal also submits that there is no evidence submitted by the applicant to prove that even being married, she was going through economic hardship and, thus, was completely dependent on the income of her parents, in particular, of her mother, who was a govt. Employee.

Mrs. Bandyopadhyay submits that although, being married, she was going through financial difficulties, therefore, she prays for a direction to be given to the respondent to offer her an employment under compassionate ground.

Mrs. Bandyopadhyay also submits that in WPST 447 of 2013 para 112, the Hon'ble High Court has struck down the clause which did not offer compassionate employment to married daughter as unconstitutional.

After hearing the learned advocates and considering the facts and circumstances and considering that the applicant's mother died due to COVID while taking care of COVID patients. although, the respondents has already paid Rupees. 10 (Ten lakh) rupees as financial help to the applicant, but the Scheme which also share a job for the legal heirs of any employee who died in COVID-19 has been withheld from her. It is also made to understand what the Hon'ble High Court has stated regarding compassionate employment to married daughters. The Hon'ble Court in CAN 12495 of 2014 in FMA 1277 of 2015 The State of West Bengal & Ors. Vs. Purnima Das & Ors., with WPST 447 of 2013 Arpita Sarkar Vs. State of West Bengqal & Ors, with WPST 78 of 2014 Kakali Chakraborty (Dutta) Vs. The State of West Bengal & Ors has held that :-

“Our answer to the question formulated in paragraph 6 supra is that complete exclusion of married daughters like Purnima, Arpita and Kakali from the purview of compassionate appointment, meaning thereby that they are not covered by the

definition of ‘dependent’ and ineligible to even apply, is not constitutionally valid.”

In view of the above, the respondent No. 4 is directed to re-consider the impugned order dated 24.09.2020 appear at page 27 of the application by way of passing a reasoned order after giving an opportunity of hearing to the applicant within a period of twelve weeks from the date of this order and to communicate the reasoned order to the applicant within two weeks thereafter.

Accordingly, OA is disposed of.

SAYEED AHMED BABA
MEMBER (A)

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