

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 390 OF 2017

SUBAL CHANDRA MAHATO - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicants : Mr. Amit Prokash Lahiri,
and Advocate
Date of order
19
04.08.2022 For the State Respondents : Mr. Manujendra Narayan Roy,
Advocate

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6(5) of the Administrative Tribunals Act, 1985.

In this application, Mr. Subal Chandra Mahato, the applicant, has prayed for certain reliefs, the relevant portion of which is as under:

- “a) To issue an order upon the Respondent authorities to issue appointment letter in favour of the Applicant under Compassionate ground for the post of Group ‘D’ under the Respondents by quashing and/or setting aside the Order impugned dated 16.03.17 passed by the Respondent No. I herein (Annexure – ‘K’ to the Application);*
- b) To issue a mandate upon the Respondents No. I to give appointment to the Applicant under Compassionate ground by recalling the order dated 16.03.17 and till such consideration one post of Group – ‘D’ in the Concerned Department / Directorate / Offices of the Respective Districts be kept vacant;”*

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It appears from records that the father of the applicant - Dwijapada Mahato, a work charged employee of the Water Resources Investigation and Development Department, Government of West Bengal, died in harness on 12th February, 2005. After his death, the applicant, one of the sons of the deceased, claimed to have filed an application for appointment on compassionate ground on 20th June, 2005, which has been negated in the impugned order dated 16th March, 2017 passed by the Principal Secretary, Water Resources Investigation and Development Department, Government of West Bengal, the respondent no.1.

Heard Mr. Amit Prokash Lahiri, learned advocate for the applicant and Mr. Manujendra Narayan Roy, learned advocate for the State respondents.

It appears that directions were issued on 18th April, 2018 to file reply and rejoinder. No reply has been filed on behalf of the State respondents. In the absence of reply the statements made in the application are deemed to have been admitted by the respondents.

The first question which comes upon consideration is whether late Dwijapada Mahato, who started his career as a work charged employee, whose services were regularised with effect from 1st June, 1987 as stated in the application, can be said to be a regular employee. In the absence of reply on behalf of the respondents it has to be accepted that the late Dwijapada Mahato was a regular employee. Accordingly we find that the impugned order dated 16th March, 2017 holding Dwijapada Mahato as a work charged employee, is incorrect and cannot be accepted. Moreover, assuming the application for compassionate appointment was filed not on 20th June, 2005 but on 7th June, 2012, the Principal Secretary, Water Resources Investigation and Development Department, Government of West Bengal, the respondent no.1, in the impugned order erred in relying on the notification dated 251-Emp dated 3rd December, 2013 as it was not germane on the date of filing the application on 7th June, 2012. Therefore, the order dated 16th March, 2017 under challenge is set aside and quashed. The application is allowed. Accordingly, the Principal Secretary, Water Resources

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SCN.

Investigation and Development Department Establishment (Cell-II) Branch, Government of West Bengal, the respondent no.1 is directed to consider the matter regarding the application for compassionate appointment of the applicant afresh by passing a reasoned order to be communicated to the parties within fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal, after giving an opportunity of hearing, considering the late Dwijapada Mahato, the father of the applicant as a permanent employee, after considering the judgement passed by the Supreme Court in Civil Appeal No. 4103 of 2022 (arising out of S.L.P. (Civil) No. 936 of 2022) : Malaya Nanda Sethy vs. State of Orissa & Ors. and after verifying the records.

(SOUMITRA PAL)
CHAIRMAN

WEST BENGAL ADMINISTRATIVE TRIBUNAL