

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 456 of 2024.

RANU GHOSH - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

01  
03.10.2024

For the Applicant : Mr. S. Ghosh,  
Mr. S. Bhattacharjee,  
Mrs. S. Das,  
Advocate.

For the State Respondents : Mr. D. Koley,  
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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

Affidavit of service filed today be kept on record.

The applicant has prayed for a direction to the Respondent Authority to take final decision regarding her prayer for an employment under compassionate ground. The father of the applicant Kiriti Mohan Ghosh had died in service on 30.08.2011 working as a Peon in the office of the Executive Engineer, Burdwan North Highway Division, Public Works (Roads) Directorate, - the respondent no. 5. Few months before her father expired, the applicant had married on 18.04.2011. The mother of the applicant, Chanpa Rani Ghosh had applied for herself for such employment within the permissible time on 24.10.2011 but, later her application was rejected on the ground that she had already crossed the upper age limit. The applicant, being the married daughter had applied on 27.01.2021 before the Respondent authorities and the Screening-cum-Enquiring Committee furnished its report on 30.12.2022 strongly recommending such an employment in favour of the applicant. The proposal along with the enquiry report and other relevant documents was submitted by the Executive Engineer on 27.02.2023 to the Superintending Engineer, Western Highway Circle-I, Public Works (Roads) Directorate. The Superintending Engineer by his letter dated 15.07.2024 communicated his opinion that the applicant was a married daughter at the time of death of her father and in terms of 04-Emp

**ORDER SHEET**

Form No.

RANU GHOSH.

---

-Vs-

Case No. OA 456 of 2024.

THE STATE OF WEST BENGAL & ORS.

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dated 4<sup>th</sup> January, 2011 she is not eligible.

Mr. Bhattacharjee and Mrs. Das, learned counsels argue that the Respondent authority, Superintending Engineer in his communication dated 15.7.2024 had expressed an incorrect and untenable opinion by relying on 04-Emp Notification. They have drawn attention to Labr/419/Law dated 04.11.2022 published by the Labour Department. Notification No. Labr/419/Law dated 04.11.2022, amended certain provisions of the Notification 251-Emp dated 03.12.2013. The relevant amendment in this case being clause 3(c) which is as under:-

SL. No.	Existing/New Clause/Para No.	Existing Provision	Proposed Provision.
1.	Cl 3(b),3(c),3(d) of Notification No. 251-Emp dated 03.12.2013	(c) Unmarried daughter(including legally adopted unmarried daughter before death or incapacitation);	(C) daughter(including legally adopted daughter before death or incapacitation or missing); or .....

The amended 3(C) of 251-Emp dated 03.12.2013 defines members of the dependant family who are entitled for an employment under compassionate ground. By this amendment, it has become clear that daughters, even married daughters, whose marriage were solemnised before the death of the deceased employee, are not only family members, but they are also entitled to apply for employment under compassionate ground.

Submission is that the Respondent authority did not rely on this Notification Labr/419/Law which after amending the provisions of the main Notification 251-Emp, married daughter is entitled to apply for such employment.

Mr. Koley has submitted that though the applicant is a married daughter and entitled to apply but in terms of the law laid down by the Hon'ble Apex Court in SLP No. 17563 of 2018, she also has to fulfil certain conditions. The

**ORDER SHEET**

Form No.

RANU GHOSH.

---

**-Vs-**

Case No. OA 456 of 2024.

THE STATE OF WEST BENGAL & ORS.

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Respondent authorities need to examine whether the applicant had fulfilled these conditions or not.

The matter is admitted.

This Tribunal has been functioning with just one Administrative Member for the last two years. Appreciating such serious constraints faced by the Tribunal, the learned counsels, Mr. S.Bhattacharjee and Mr. D.Koley, representing all the sides have no objection if this matter is heard on 09.04.2025.

Let this matter be listed under the heading "Hearing" on 09.04.2025. Reply and rejoinder, if any in the meantime. The point of maintainability be kept open.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

HS/SKG.