

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER

Case No. – OA- 463 of 2023

Safiulla Saikh - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

:

Ms. Tulika Bhattacharya,
Learned Advocate.

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29.07.2024.

For the State Respondents

Mr. G.P. Banerjee,
Learned 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 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

The applicant being the grandson of the deceased employee had applied for an employment under compassionate ground which was considered and rejected by the impugned order of the respondent authorities passed on 07.09.2022. The deceased employee, the applicant's grandfather had died on 13.06.2011 and the applicant's father had submitted such an application. However, the father after making such an application also expired. Submission of Mr. Banerjee, learned counsel for the State respondents is that such an application is not admissible for compassionate employment by a grandson of the deceased employee. He submits that as per the Notification No. 251-Emp. of the Labour Department, the definition of "family" has been clearly laid down and grandson is not a family member for the purpose of compassionate employment. Disagreeing with what Mr. Banerjee has submitted about the admissibility of this application, Ms. Bhattacharyya submits that this particular Notification No. 251-Emp. dated 03.12.2013 was published at a later date from the death of the employee which occurred in 2011. Therefore, this particular rule is not relevant in this matter to which Mr. Banerjee disagrees and submits that the Notification No. 251-Emp. was issued in supersession of all previous orders in this respect. Therefore, the ground laid down in Notification No. 251-Emp.

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for admissibility of such application has to be taken as relevant even prior to its publication.

Ms. Bhattacharya, learned counsel relies and refers to Notification 301-Emp dated 21.08.2002 and submits that the very wordings in the Notification “**near relations**” mean that the applicant being the grandson of the deceased employee falls under this category. Therefore, being a near relation he is entitled to an employment under compassionate ground. However, Mr. Banerjee still disagrees that the Notification 301-Emp dated 21.08.2002, has been superceded by subsequent Notifications and the applicant’s father having died in the year 2011, this case is being covered under Notification 251-Emp which was published on 03.12.2013, further amended by 26-Emp dated 01.03.2016. It has also been brought to the Tribunal’s notice that the applicant’s date of birth 17.05.1996 was a minor at the time of death of his grandfather on 13.06.2011.

After hearing the submissions of the learned counsels and considering the facts and circumstances of the case, the Tribunal has come to the conclusion that the applicant who was a minor at the time of death of his grandfather, was not entitled for such an employment under any of the relevant Notifications. Further, the application made on his behalf by his mother and also the fact that his father, had applied for such an employment are not relevant and material facts in this case. The application for such an employment pertains only to this applicant. Therefore, it is of no consideration that his mother applied for him once or his father for himself. The Tribunal is reminded by several judgements of Hon’ble Supreme Court that compassionate employment is neither hereditary nor a vested right on the members of the family of the deceased employee. The first and foremost necessity for such

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entitlement is the financial condition of the members of the family of the deceased employee. In this case, the very fact that such an application was submitted in 2022 does not satisfy this Tribunal that the family was facing serious financial difficulties. The fact of such late application, besides the other points as narrated above, does not satisfy the Tribunal that there is merit in this application, and, therefore, it is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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