

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : **HON'BLE JUSTICE SOUMITRA PAL,** **HON'BLE CHAIRMAN.**

Case No. – OA 510 of 2022.

MONALISA BAG (BHATTACHARJEE) -Versus- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mrs. S. Mitra, Advocates.
<u>3</u> 24.8.2022	For the State Respondents	:	Mrs. S. Agarwal, Advocate.

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 496-WBAT/1E-08/2003 (Pt.-II) dated 4th August, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In the application Monalisa Bag (Bhattacharjee) has prayed for certain reliefs, the relevant portion of which is as under :-

“...(a) An order do issue thereby setting aside /quashing the Memo No. HPA/G-68/2016/A1040/1(1) Kolkata 05.03.2020 issued by the Additional Director of Health Services (Personnel), Directorate of Health Services, West Bengal whereby the prayer of the applicant has been rejected with immediate effect.

(b) An order do issue directing the respondent authorities to issue appointment letter on compassionate ground in die-in-harness category in favour of the applicant accordingly under Group “C/D” category commensurate to her educational qualification in the matter of appointment on compassionate ground after setting aside the Memo No. HPA/G-68/2016/A1040/1(1) Kolkata 05.03.2020 issued by the Additional Director of Health Services (Personnel), Directorate of Health Services, West Baengal within a stipulated time period....”.

It appears that Gopal Chandra Bag, the father of the applicant was a General Duty Attendant (GDA) at Berhampore General Hospital,

ORDER SHEET

Form No.

MONALISA BAG (BHATTACHARJEE).

-Vs-

THE STATE OF WEST BENGAL & ORS.

Case No. OA 510 of 2022.

Murshidabad, who expired on 23rd November, 2005 leaving behind his wife Sikha Rani Bag, Sekhar Bag, son and the applicant, the daughter. After the death of late Gopal Chandra Bag, Sikha Rani Bag made an application for compassionate appointment on 16th January, 2006 and thereafter also filed an application in the prescribed proforma for such appointment. Since it was not disposed of, an application being OA 81 of 2022 was filed by the mother of the applicant, which was withdrawn as pleadings and prayers were defective and order was passed granting liberty to the applicant therein to move afresh on the self same cause of action as evident from the order dated 20th June, 2022. It appears the applicant filed an application for compassionate appointment in the prescribed proforma, as evident from pages 18 to 20 of the application, which, as evident from the memo dated 5th March, 2020, was rejected. It is submitted by Mrs. S. Mitra, learned advocate for the applicant that though it is evident from the memo dated 2nd June, 2016 issued by the Chief Medical Officer of Health, Murshidabad that the matter regarding employment on compassionate ground was considered by a three member committee and necessary measure regarding employment on compassionate ground in favour of the applicant was requested to be taken, however without considering the same it has been rejected.

Mrs. S. Agarwal, learned advocate appearing on behalf of the respondent authorities submits since the applicant is a married daughter of late Gopal Chandra Bag and the application was filed after the lapse of more than ten years, no order may be passed.

In order to appreciate the issue, it is necessary to refer to the memo dated 2nd June, 2016 issued by the Chief Medical Officer of Health, Murshidabad, the respondent no. 4 to the Director of Health Services, West Bengal, the respondent no. 2, which is as under :-

“...Enclosed please find herewith an application in respect of Smt. Monalisha Bag (Bhattacharjee), D/O Late Gopal Chandra Bag, Ex-GDA, was lastly attached to the office of the New General Hospital Now Murshidabad

-Vs-

THE STATE OF WEST BENGAL & ORS.

Case No. OA 510 of 2022.

Maedical College & Hospital, Murshidabad in regards to the employment on compassionate ground along with enquiry report of the three member committee and all other necessary documents with relevant papers, which will speak for itself.

Therefore, you are earnestly requested to do the needful on the above subject, so that necessary measures regarding employment on compassionate ground in favour of Monalisha Bag (Bhattacharjee) may please be taken from your kind end please....”

The relevant portion of the impugned memo dated 5th March, 2020 issued by the Additional Director of Health Services (Personnel) , Directorate of Health Services, the respondent no. 3 to the respondent no. 4 is as under :-

*“....Sub. : Prayer for employment on compassionate ground in r/o
Smt. Monalisha Bag (Bhattacharjee), d/o Late Gopal
Chandra Bag, Ex-GDA*

This is to inform you that the prayer of Smt. Monalisha Bag (Bhattacharjee), d/o Late Gopal Chandra, Bag, Ex-GDA, New General Hospital, now Murshidabad Medical College & Hospital, is not eligible for employment on compassionate ground for the following reason -

1.The Ex-Employee expired on 23.11.2005 and the applicant applied on 15.02.2016, i.e. after a lapse of more than 10 years.

*Hence the undersigned regrets to inform that the **prayer of Smt. Monalisha Bag (Bhattacharjee) seeking employment on compassionate ground is rejected by the competent authority....”**.*

Since the order rejecting the prayer of the applicant seeking employment on compassionate ground does not deal with the enquiry report of the three member committee and other relevant papers, the order under challenge being memo dated 5th March, 2020 cannot be sustained and is thus set aside and quashed. The application is allowed. Accordingly, the Secretary, Department of Health and Family Welfare, Government of West Bengal, - the respondent no. 1 is directed to consider the matter afresh and shall pass a

ORDER SHEET

Form No.

MONALISA BAG (BHATTACHARJEE).

-Vs-

THE STATE OF WEST BENGAL & ORS.

Case No. OA 510 of 2022.

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 to the applicant and other members of the family, after considering the enquiry report of the three member committee which shall be dealt with in the said order and after making necessary enquiry.

(SOUMITRA PAL)
CHAIRMAN.

Sk.