

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : **HON'BLE JUSTICE SOUMITRA PAL,** **HON'BLE CHAIRMAN &**
HON'BLE SAYEED AHMED BABA, **ADMINISTRATIVE MEMBER.**

Case No. – OA 534 of 2021.

ADITYA MAHATO – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S. Roy, Ms. K. Das Chakraborty, Advocates.
<u>2</u> 1.2.2022	For the State Respondents	: Mr. S.N. Ray, Advocate.

Affidavit of service filed today be kept on record.

Heard Mr. S. Roy, learned advocate for the applicant and Mr. S.N. Ray, learned advocate for the State respondents.

In the application, Aditya Mahato, the applicant has prayed for certain reliefs, the relevant portion of which is as under :-

“a).....To set aside and/or quash impugned Speaking Order dated 30.09.2020 as the same is in violation and in contravention to relevant Labour Department Notification No. 251 Emp dated 03.12.2013 read with Department Notification No. 165 EMP dated 04.06.2019;

b) To direct the Respondent Authorities to grant compassionate appointment by relaxing educational qualification as per relevant Labour Department Notification No. 251 Emp dated 03.12.2013 read with Department Notification No. 165 Emp dated 04.06.2019;

c) To direct Respondent Authorities to consider afresh the representation dated 24.09.2019 addressed to them for grant of compassionate appointment by relaxing educational qualification as per relevant Labour Department Notification No. 251 Emp dated 03.12.2013 read with Notification No. 165 Emp dated 04.06.2019.....;”

It appears that the applicant, son of Madhusudan Mahato, a peon attached to the office of the Assistant Engineer (A-I), Purulia-II

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(AI) Sub-Division Purulia, passed away on 19th June, 2008 leaving behind the applicant and other heirs. The applicant applied for compassionate appointment within the specified time limit. The case of the applicant was considered and it appears from annexure “F” to the application that his name was empanelled. However, it appears from intimation dated 29th November, 2017 by the Assistant Secretary to the Government of West Bengal addressed to the Director of Personnel and Ex-officio Chief Engineer, Water Resources Development Directorate, Kolkata, that the State had rejected the application as he was not qualified. It appears that the applicant is class-V pass on 30th January, 1990 as evident from annexure “F” to the application. It is submitted on behalf of the applicant that while rejecting the application for compassionate appointment respondents have not considered the notification dated 3rd December, 2013 containing the “West Bengal Scheme for Compassionate Appointment, 2013”, particularly the stipulation in ‘Eligibility’, in paragraph (b) thereof, which is as under :-

“.....(b) Relaxation in educational qualification may be granted in eligible cases for appointment to Group ‘D’ post in consultation with the Finance Department....”.

We find that the respondents while issuing the order of rejection has not considered the said stipulation for “Relaxation in educational qualification”. Therefore, the impugned order contained in the intimation dated 29th November, 2017 is set aside and quashed. The application is allowed.

The Principal Secretary, Water Resources Investigation and Development Department, - the respondent no. 1, is directed to

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consider the matter regarding appointment of the applicant on compassionate ground afresh in terms of the scheme being 251-Emp dated 3rd December, 2013, particularly paragraph 6 (b) thereof, as quoted herein before, and shall pass 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 and after verifying the records.

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN.

Skg.