

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 616 of 2022.

SHRI RAHUL DUKPA–Vs- THE STATE OF WEST BENGAL & ORS

Serial No. and
Date of order

5
11.7.2023

For the Applicant : Mr. S.K. Mondal,
Advocate.
For the State respondents : Mr. S. Ghosh,
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.

On consent of the learned counsel for the contesting parties, the case is taken up for consideration sitting singly.

In this application, the prayer is for a direction to the respondents to consider the applicant's case for appointment on compassionate ground. Mr. S.K. Mondal, learned counsel appearing on behalf of the applicant submits that the applicant after he being un-successful in the physical test for the post of Constable, he was asked about his willingness for the post of GDA in Health Department by the respondent No. 4, Superintendent of Police, Cooch Behar.

Accordingly, the applicant submitted his written consent to be accepted as a GDA under exempted category which was submitted and received by the respondent office on 04.01.2017. But to his surprise, Mr. Mondal refers to page 23 and 24 where it appears that his application for Group – D under the exempted category was rejected on the ground that the application for compassionate employment was made after more than 18 years. Another reason cited by the respondents for rejection is that the applicant was a minor of just 9 months and 3 days

at the time of death of the deceased employee. Hence, in view of the notification 251-EMP dated 03.12.2013, he was not found eligible and thus regretted.

Mr. S. Ghosh, learned advocate for the respondent refers to the reply of the respondent and submits that the rejection of this application was in conformity with the relevant rule-Notification Emp-251 dated 3.12.2013. The decision to regret the application, based on the provisions contained in this Notification was for the following two reasons :-

- (i) That the application for employment under compassionate ground was submitted by the mother of the applicant after a lapse of 18 years from the date of death of the deceased employee.
- (ii) That the applicant was a minor of nine months and three days old only at the time of death of his father, the deceased employee.

From the submissions and the records in this application, the Tribunal observed that as a compassionate gesture, the respondent authorities had given him opportunity to appear for a physical test for the post of Constable. But, unfortunately, the applicant could not be successful in the physical test and thus missed the opportunity to get employment as a Constable in the Police Department. Thereafter, the applicant was asked for his consent whether he wants to accept an employment as a GDA under exempted category in the department of Health and Family Welfare. Accordingly, he had submitted his willingness before the Superintendent of Police, Coochbehar. But, such an employment as a GDA under the Health Department did not materialise. On the other hand, the Home and Hill Affairs Department informed the Director General & Inspector General of Police, West Bengal dated 06.06.2019 that the application for appointment under compassionate ground is regretted on the ground of application being submitted after a lapse of eighteen years and the applicant being a minor at the time of death of the deceased employee.

After examining the matter, the Tribunal is of the view that though this was a well deserved case for providing appointment on compassionate ground, but, the two reasons for rejection cited above on the basis of the relevant rule – Emp 251, was valid and in conformity with the law dealing with such cases. Therefore, the Tribunal

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does not see any reason why the impugned order should be set aside. Accordingly,
this application is disposed of without any order.

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

Skg.

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