

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 630 of 2018.

RAM PRABESH ROUTH –VS-THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. S.K. Mondal, Advocate.
<u>10</u> 2.8.2022	For the State Respondents	: Mr. S.N. Roy, Advocate.

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In this application Ram Prabesh Routh, the applicant has prayed for certain reliefs, the relevant portion of which is as under :-

“i)An order or orders and/or direction or directions be given for setting aside and/or quashing the impugned Memo. bearing No. 2726-CIE/6P-390/2009 dated 6th March, 2017 (Annexure – “P-18”) issued by the Director of Personnel and Ex-officio Chief Engineer, Irrigation and Waterways Directorate, Government of West Bengal rejecting thereby the long pending prayer of the applicant for an appointment to a suitable post/vacancy on compassionate ground.

ii) To direct the respondents and each of them to offer employment to the applicant on compassionate ground and/or appoint the applicant to a suitable vacancy/post on compassionate ground forthwith...”.

It appears from record that directions were issued to file reply and rejoinder. The State respondents have not filed reply.

It is submitted by Mr. S.K. Mondal, learned advocate appearing on behalf of the applicant since after the death of the father of the applicant on 2nd March, 1989, the applicant had filed an application for compassionate appointment on 30th December, 1994 which was rejected by memo dated 6th March, 2017, being annexure P-8 to the application, appropriate order may be

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passed. Referring to the West Bengal Scheme for compassionate Appointment, 2013 dated 3rd December, 2013, annexed to the application, particularly the definition of "Government employee" appearing at paragraph 3(f) thereof, it is submitted that though rejection was made on the ground that the deceased father of the applicant was a work-charged employee, submission is that a work-charged employee does not come under the said definition. Therefore, order may be passed as persons similarly situated have been given appointment. In support of his submission, he refers to an unreported judgement delivered on 20th May, 2022 in Civil Appeal No. 4103 of 2022 (arising out of S.L.P.(Civil) No. 936/2022) Malaya Nanda Sethy-versus- State of Orissa. Submission is since in spite of directions, no reply has been filed, the statements made in the Original application are deemed to have been admitted by the respondents, appropriate order may be passed directing appointment of the applicant on compassionate ground.

Mr. S.N. Ray, learned advocate appearing on behalf of the State respondents submits that since the applicant has filed another application dated 28th June, 2017 for employment on compassionate ground, appearing at page 59 of the application, no order may be passed.

Heard learned advocates for the parties.

Admittedly, by order dated 28th September, 2018 and 9th January, 2019 directions were issued to file reply. Till date no reply has been filed by the State respondents. In the absence of reply, the statements made in the application are deemed to have been admitted by the respondents. Therefore, the impugned order contained in the memo dated 6th March, 2017, being annexure P-18 to the application issued by the Director of Personnel & Ex-officio Chief Engineer, Irrigation & Waterways Directorate, Government of West Bengal, - the respondent no. 2 (ii) is set aside and quashed. The application is allowed. Accordingly, the Principal Secretary, Irrigation and Waterways Department, Kolkata , - the respondent no. 2(i) is directed to

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consider the matter afresh in the light of the judgement passed in Malaya Nanda Sethy (supra) and in the light of the provisions which were prevalent regarding compassionate appointment in the year 1994 and shall pass a reasoned order within fifteen weeks from the date of furnishing a copy of this order downloaded from the website of the Tribunal, after giving an opportunity of hearing and after verifying the records.

(SOUMITRA PAL)
CHAIRMAN.

Skg.