

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 667 OF 2021

PROMOD KUMAR RAI - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicant : Mr.Goutam Pathak Banerjee
Advocate

12

12.08.2024

For the State respondents : Mr.Manujendra Narayan Roy
Mr. Gourav Haldar
Advocates

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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

The father of the applicant, Shiv Sankar Rai had died while serving as an office peon on 03.11.1999 in the office of Executive Engineer, Calcutta Drainage Outfall Division, Irrigation and Waterways Directorate. Soon after the death of the father, and within the admissible time period, he and his mother furnished prayers before the respondent authorities to grant them an employment under compassionate ground. From copies of the documents available in this application, it is clear that the preliminary processing of the proposal for such an employment was taken care of. Three references in particular, are relevant; (i) Memo. No. 3063 dated 01.10.2015 written by the Joint Secretary of the Department to the Executive Engineer; (ii) Memo. No. 6E-69/157 dated 02.02.2017 from the Superintending Engineer to the Executive Engineer and (iii) Memo. No. 3555 dated 14.03.2019 from the Director of Personnel to the Secretary, Irrigation and Waterways Department. This last correspondence is evident of the fact that the proposal for an

ORDER SHEET

Form No.

PROMOD KUMAR RAI

Vs.

Case No : **OA 667 OF 2021**

THE STATE OF WEST BENGAL & OTHERS.

employment under the compassionate ground in favour of the applicant was submitted in the prescribed proforma before the competent authority in the Department. Since despite submission of the proposal, the Department was hesitating in taking a decision, the applicant had approached this Tribunal for a direction to the respondent authorities in OA-446 of 2017 and MA-132 of 2019. By an order dated 06.09.2019, the respondent No. 1, the Secretary of the Department was directed to take the final decision with regard to the compassionate appointment of the applicant. In terms of such a direction, the Secretary of the Department finally took a decision and passed a speaking order on 05.05.2021. The reasoned order rejects the proposal for such an employment on the ground that the applicant has become overage, being 42 years old. Interestingly, the reasoned order also mentions that due to limited number of posts available for such compassionate appointment, the Department has taken a decision not to condone any relaxation for educational qualifications or age. It also adds such relaxation is purely discretionary and depends upon overall facts and circumstances. However, the Department having noticed that the applicant is now over 42 years old cannot be eligible for an appointment and thus his prayer was regretted.

Appearing on behalf of the applicant, Mr.Banerjee, learned counsel argues that, had the respondent authorities, including the Executive Engineer taken care to promptly complete the process and submit the proposal for the final decision of the competent authority, such ground of being overage would not have been the case. For instance, Mr.Banerjee relies on the date 02.02.2017 in which, the Superintending Engineer had advised the Executive Engineer to resubmit the proposal with all the relevant documents. On the day such

ORDER SHEET

Form No.

PROMOD KUMAR RAI

Vs.

Case No : **OA 667 OF 2021**

THE STATE OF WEST BENGAL & OTHERS.

advise was given by the Superintendent, the applicant was only 38 years, 3 months and 28 days. Therefore, the respondent authorities themselves are to be blamed for their casual attitude in processing the case and they cannot now reject the same on the ground the applicant has become overage.

Mr.Roy and Mr.Haldar, learned counsels appearing on behalf of the respondent authorities wishes to take instructions and present their submissions before this Tribunal on the next date.

Let the matter appear under the heading "For Orders" on 8th January, 2025.

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

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