

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –OA 686 of 2015

Mamoni Roy. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mr. S. K. Das, Advocate.
<u>30</u> 20.06.2022.	For the State Respondents	: Mrs. S. Mitra, Mr. B. P. Roy, Advocates.

In this application, Mamoni Roy - the applicant is wife of late Radha Gobinda Roy, who worked as Constable in Kolkata Police, who died-in-harness on 06.01.2011. Thereafter, the applicant applied for a compassionate employment on 23.07.2011. The applicant, being wife of the deceased employee is also the recipient of the family pension. The respondents in its reasoned order dated 03.04.2015 rejected the application on the ground that necessary 'No Objection' from other family members are not submitted. In the reply to the respondents, the applicant states that despite several requests made to other family members, they are not willing to give the required 'No Objection' for her application under compassionate ground.

Learned advocate for the applicant submits that the requirement of submitting 'No Objection Certificate' is not mandatory under law; it is only a secondary document to be attached with the application in proforma. Therefore, suitable direction may be given to the respondents to consider the application without any regard to the 'No Objection Certificate'.

Learned advocate also submits that in the reply given by the respondents at para 4(e), the requirement of 'No Objection Certificate' as Annexure 'A' which is considered necessary under Labour Department Notification No. 30-Emp. Dated 02.04.2008, 114-Emp dated 14.08.2008 and 251-Emp dated 03.12.2013, are notifications

issued after the death of the deceased employee on 06.05.2011. Therefore, these notifications are not applicable in this case and submit for setting aside the impugned order rejecting his application for compassionate employment.

Learned advocate has cited an order of the Jharkhand High Court and Madras High Court supporting his submission. After perusal of the two orders of the High Courts, it appears that both are not relevant in this case as the orders quoted mainly pertains to the applicant given an undertaking to take care other family members.

Mrs. S. Mitra, learned advocate for the State respondents submits that the applicant was categorically asked in writing to submit the 'No Objection Certificate' from other family members in her favour for compassionate employment. In response, the applicant has stated that other family members are not willing to give the 'No Objection Certificate'. Since no such 'No Objection Certificate' is forthcoming, the respondents issued the impugned order dated 09.04.2015 that – *"in view of 'No Objection Certificate' from other family members were not submitted, therefore, the application of the applicant – Mamoni Roy is regretted."*

Mrs. S. Mitra, learned advocate for the State submits that it is necessary for the applicant to submit such a 'No Objection Certificate' in view of the fact that Mamoni Roy is the second wife of the deceased employee. And if no such 'No Objection Certificate' from other family members are submitted or if other family members are not willing to submit, it might happen that other family members will dispute giving employment to the applicant. Mrs. Mitra also submits that the contention

of the learned advocate for the applicant regarding non application of the Labour Department notifications issued after the death of the deceased employee is not tenable due to the fact that earlier Notification of the Labour Department dated 02.04.2008 clearly states the requirement of submission of an application in the prescribed proforma, in the prescribed proforma and the requirement of submission of 'No Objection Certificate' is clearly mentioned. Mrs. Mitra also contests that citation quoted by the learned advocate for the applicant from Jharkhand High Court and Madras High Court are not relevant in this case due to the fact that each State has its own separate and distinct schemes and rules. Therefore, the rule which is applicable in one State may not be relevant for this State. Therefore, she prays for rejecting these judgements of other High Court cited in this case.

After hearing both the learned advocates and considering the documents on the record, let the matter appear under the heading "For Orders" on 21st September, 2022.

(SAYEED AHMED BABA)
MEMBER(A)

S.M.