

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 690 of 2022

SANJIB SARDAR - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

05
14.06.2023

For the Applicant : Mr. Sukumar Ghosh
Advocate

For the State respondents : Mr. Soumendra Narayan Ray
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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application relates to setting aside the impugned order dated 27.06.2022 passed by the Secretary, Animal Resources Development Department, Government of West Bengal relating to the compassionate employment of the applicant. The reasoned order passed by the respondent rejected the application for compassionate employment on the ground that the application does not fulfil certain requisite conditions.

Submission of Mr Ghosh, learned advocate appearing on behalf of the applicant is that the respondent has failed to give a specific reason as to why the application for compassionate employment was rejected. The reasoned order passed is devoid of any merit and is non est in the eyes of law.

Mr Ray, learned advocate appearing on behalf of the respondent submits that since the application did not fulfil the eligibility criteria, therefore, the application was turned down.

After hearing the submissions of the learned counsels and in particular, examining the reasoned order passed by the respondent dated 27.06.2022, it is clear that the rejection for compassionate employment was not passed on any specific rule. It is also clear that though the departmental committee after a thorough enquiry had recommended the case, but such recommendation was simply mentioned, however, it was not disagreed by giving specific reason. The relevant portion of the enquiring committee is as under:

“Pension for the first month of disbursement amounting Rs.7,970/- alongwith interest on Death Gratuity Rs.3,93,652/-, Group Insurance Rs. 16,173/-, Leave encashment Rs.1,43,590/- @ of 8% per annum calculated on monthly basis and other income amounting nil comes to Rs.11,660/- (Rs.7,970/- + Rs.3,690/-) which is below 90% of the salary by late Kalipada Sardar.

We recommend the proposal for appointment on compassionate ground.”

The relevant para rejecting the application by the respondent is as under:

“ 5. And whereas, the Departmental Committee, on examination of the documents and considering the matter from all relevant aspects, made it observations / recommendations to the ARD Department. Based on the above exercise, the department has decided that present application for appointment on compassionate can not be granted as it does not fulfil the requisite conditions laid out by the Government of West Bengal for compassionate appointment.

6. Hence, the application of Sri Sanjib Sardar for appointment on compassionate ground is hereby declined and disposed of.”

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From the above, it is clear that the Departmental Committee had inquired in detail and submitted its specific recommendation that since the total monthly income of the family falls below 90 % of the gross salary of the deceased employee, proposal for appointment was recommended.

It is also clear from the impugned order that neither any specific reason nor any specific Government rule was cited and relied upon in rejecting this application. Therefore, this reasoned order is liable to be quashed and hence it is quashed and set aside with a direction to the respondent No. 1, the Secretary, Department of Animal Resources Development to reconsider the application for compassionate employment and pass a reasoned and speaking order after relying on specific Government rules / orders within a period of eight weeks from the date of communication of this order and inform the same to the applicant within two weeks thereafter.

Accordingly, the application is disposed of.

BLR

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