

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman,  
The Hon'ble Sayeed Ahmed Baba, Administrative Member

**Case No. – OA 720 of 2021**

**Smt. Archana Mitra - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mrs. M. Dhar Chowdhury, Mrs. S. Agarwal, Advocates.
<u>2</u> 10.12.2021	For the State respondents	: Mr. B.P. Roy, Advocate.

Affidavit of service filed be kept on record.

As prayed for by Mrs. Dhar Chowdhury, leave granted to add the Additional Secretary, Home and Hill Affairs Department, Police Establishment Branch, Government of West Bengal as a party respondent by amending the cause title of the original application in course of this day.

In this application, Smt. Archana Mitra, the applicant has prayed for certain reliefs, the relevant portion of which is as under :

*“a) An order directing the respondents, their agents, subordinates and successors specially the respondent No. 2 and 3 to set aside and/or quashed the impugned Memorandum being No. 1933-PL/PB/2P-346/2014 dated 03.11.2020 issued by the Commissioner, Government of West Bengal, Department of Home and Hill Affairs, Police Establishment Branch and communicated under Memo No. 325/RO dated 28.04.2021 and forthwith appoint the applicant to the post of Group-D or any other post incommensurate to her qualification under died-in-harness category forthwith, without any hindrance from any quarters.”*

The relevant portion of the order dated 3<sup>rd</sup> November, 2020, passed

Form No.

Case No. **OA 720 of 2021**

**Vs.**

State of W.B. & Others

by the Additional Secretary, Home and Hill Affairs Department, Police Establishment Branch, Government of West Bengal, the respondent no. 5, which is under challenge, is as under :

*“Sub: Compassionate appointment under exempted category in respect of Smt. Archana Mitra, W/O Late Biswanath Mitra, Ex-Constable /922 of SEaldah GRP to the post of Group-D in West Bengal Police.*

*Ref: Your Memo No. 201/Spl./EmP-102/2008 dated : 17.05.2018.*

*Sir,*

*With reference to the above, I am directed to state that the proposal on the above noted subject has been taken up and examined in this Department in the light of the Notification No. 251-EMP, dated 03.12.2013 of the Labour Department read with subsequent amendments made time to time and the case records.*

*It appears that the candidate has not fulfilled the required conditions as laid down in the said Notifications for being eligible to be considered for appointment under exempted category on the following ground :*

- The 1<sup>st</sup> prayer was submitted after a lapse of 02 years 11 months 14 Days from the date of death of the deceased employee.*

*Accordingly, I am directed to convey that the Government regrets its inability to approve this case for appointment under exempted category in the light of the guideline contained in Notification No. 251-Emp, dated 03.12.2013 of Labour Department read with subsequent amendments.*

*Necessary intimation to the applicant may kindly be ensured.”*

Heard Mrs. M. Dhar Chowdhury, learned advocate for the applicant and Mr. B.P. Roy, learned advocate for the State respondents.

Form No.

Case No. **OA 720 of 2021**

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**Vs.**

State of W.B. & Others

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As seen from the impugned order that the application for compassionate appointment has been rejected on the ground it was submitted after a lapse of two years 11 months 14 days from the date of death of the deceased employee without taking note of the revised provisions with regard to belated request. The impugned order merely refers to the subsequent amendments without dealing them in the background of facts. Hence, the order under challenge cannot be sustained and is thus set aside and quashed. The application is allowed.

Accordingly, the Additional Secretary, Home and Hill Affairs Department, Police Establishment Branch, Government of West Bengal, the respondent no. 5, shall consider the matter regarding grant of compassionate appointment to the applicant afresh by passing a reasoned order, specifically dealing with the amended provisions in the notification no. 251-EMP dated 3<sup>rd</sup> December, 2013 in the background of the facts of the case, to be communicated to the parties within 15 weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal, after giving an opportunity of hearing and after verifying the records.

(SAYEED AHMED BABA)  
MEMBER (A)

(SOUMITRA PAL)  
CHAIRMAN

Rajib