

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 725 of 2022

ESHITA GUHA MAJUMDER (TALUKDAR) - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

04
27.04.2023

For the Applicant : Mr.Manujendra Narayan Roy
Advocate
For the State respondents : Mr. Subit Kumar Mondal
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 is for compassionate employment. In terms of the Tribunal's order in OA-190 of 2020 dated 22.01.2021, the respondent passed the reasoned order on 21.02.2022 rejecting the application for compassionate employment on the following grounds as quoted.

“It appears that the candidate has not fulfilled all the required conditions as laid down in the said Notifications for being eligible to be considered for appointment under exempted category on the ground that the candidate was married daughter on the date of death of the deceased employee.

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

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amendments.”

Questioning the legality of the impugned order, Mr.M.N.Roy, learned counsel appearing on behalf of the applicant relies on a judgement of the Hon’ble High Court in F.M.A. 1277 of 2015, WPST 447 of 2013 and WPST 78 of 2014 in which para 113 is emphasized which is as under:

“113. Consequently, the offending provision in the notification dated April 2, 2008 (governing the cases of Arpita and Kakali) and February 3, 2009 (governing the case of Purnima) i.e. the adjective ‘unmarried’ before ‘daughter’, is struck down as violative of the Constitution. It, however, goes without saying that after the need for compassionate appointment is established in accordance with the laid down formula (which in itself is quite stringent), a daughter who is married on the date of death of the concerned Government employee while in service must succeed in her claim of being entirely dependent on the earnings of her father/ mother (Government employee) on the date of his/ her death and agree to look after the other family members of the deceased, if the claim is to be considered further.”

Mr.S.K.Mondal, learned counsel appearing on behalf of the State respondents submits that if a direction is given as per the above rule, the same will be considered.

After hearing the learned counsels and considering the facts and circumstances of the case, the impugned order passed by the respondent, the Senior Special Secretary vide Memo. No. 442-PL/PB/2P-131/2019 dated 21.02.2022 is quashed and set aside with a direction to the

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respondent No.1, the Additional Chief Secretary to pass a fresh reasoned order in the light of the judgement of the Hon'ble High Court cited above, within a period of two months.

Accordingly, the application is disposed of.

BLR

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