

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 726 of 2019

*Moumita Ghosh* - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>13</u> 10.08.2022	For the Applicant For the State Respondent	: Mrs. S. Agarwal, Advocate. : Mr. A.K. Das Sinha, Advocate.
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The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 496-WBAT/1E-08/2003 (Pt.-II) dated 4<sup>th</sup> August, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In the application, Moumita Ghosh, the applicant has prayed for certain reliefs, the relevant portion of which is as under :

*“.....(a) An order commanding the respondents, their men, agents and servants and each of them to refrain from giving any effect or further effect to the order dated 13.2.19 passed by Respondent No. 1 as annexed to this petition and further commanding the respondents to give appointment to the applicant on compassionate ground.*

*(b) An order commanding the respondents, their men, agents and servants and each of them to rescind and cancel the order dated 13.2.2019 passed by Respondent No.1 as annexed to the petition and to quash the same.”*

It appears earlier, the applicant had filed an application being OA-896 of 2013 praying for appointment on compassionate ground which was disposed of on 27<sup>th</sup> August, 2015 by passing an order, the relevant portion is as under :

*“.....We would now request the Addl. Chief Secretary, Home (Police) Department to kindly take a fresh decision without taking into account the question of minority of the applicant which we have discussed in the foregoing*

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*paragraphs. He is further requested to take a decision on this issue keeping in mind the facts and materials collected at the threshold stage particularly, the recommendation of the Dir. Genl. And Inspr. Genl. of Police, W.B. vide memo no.1167/(C)/Spl./Emp-50/2008 dated 17.07.2014 and communicate the same to the applicant."*

Heard Mrs. S. Agarwal, learned advocate for the applicant and Mr. A.K. Das Sinha, learned advocate for the State respondents.

It appears that the father of the applicant, Ganesh Chandra Ghosh, constable attached to Darjeeling District Police, died-in-harness on 13<sup>th</sup> February, 2002 leaving behind his wife and the applicant. The application of the applicant for compassionate appointment was not considered as she was a minor. However, in this regard, it is appropriate to refer to the statement in the reply which is as under :

*"...Again on application for appointment on compassionate ground in the Group "C" post (LDC) the candidature of the applicant were sent to the appropriate authority. The applicant was found eligible in the test and on 02/05/2010 all papers were forwarded the West Bengal Police Directorate and the Directorate was requested to move the Department for necessary approval for appointment."*

Since the applicant was found to be eligible in the test and all her papers were forwarded to the Police Directorate and in view of the order passed by the Tribunal on 27<sup>th</sup> August, 2015 in OA-896 of 2013 directing "the Additional Chief Secretary, Home (Police) Department to take a fresh decision without taking into account the question of minority of the applicant which we have discussed in the foregoing paragraphs", the order dated 13<sup>th</sup> February,

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2019 under challenge cannot be sustained and is, thus, set aside and quashed.  
The application is allowed.

Accordingly, the Principal Secretary to the Government of West Bengal, Department of Home & Hill Affairs, the respondent no. 1 is directed to consider the matter afresh and shall take a decision within fifteen 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 without taking into account the question of minority of the applicant and as the applicant found eligible in the test as stated in the reply filed by the State respondents and in the light of the judgment passed on 20<sup>th</sup> May, 2022+ in *Malaya Nanda Sethy v. State of Orissa and Others* in the Supreme Court of India in Civil Appeal No. 4103 of 2022 (Arising out of S.L.P. (Civil) No. 936/2022).

**(SOUMITRA PAL)**  
**CHAIRMAN**

CSM/SS