

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present- The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. –OA 735 of 2023

Avijit Sarkar -- VERSUS – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant : Mrs. M. Roy Dey,
Advocate.

04
13.12.2024

For the State Respondents : Mr. G. Halder,
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.

The applicant has filed this application praying for setting aside the impugned order dated 11.07.2023 passed by the Joint Secretary, Public Works Department. The impugned order after giving few grounds had regretted the application of the applicant praying for an employment under compassionate ground. The primary reason for such rejection was that the deceased employee, the mother of the applicant was a work -charged establishment and her service was not under any regular establishment. Mrs. Roy Dey, learned counsel refers to an order dated 12.07.2022 of Superintending Engineer, State Highway Circle No. III. This order refers to conversion of work- charged employees into permanent regular establishment after completing ten years of service in pursuance of Finance Department's order No. 5428F dated 19.12.1966 and 4026F dated 22.04.1974 and P.W.(Roads) Directorate order No. 2042/I(20)R/E Dt. 02.11.1999.

Mr. Halder, learned counsel for the State respondents refers to memo 7315-F(P) dated 20.07.2011 of the Finance Department and submits that as stated in this Memorandum, work-charged employees will not be regularised in permanent establishment.

From the submissions of the learned counsels and the records examined in this application, it is not in dispute that the applicant's mother, a work-charged employee, was never regularised in permanent capacity. Legal heirs of work-charged employees are not entitled for compassionate appointment. Though this has been accepted by the applicant's side but instance has been

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cited referring to a copy of an office order no. 825 of 12.07.2002. By this office order, the Superintending Engineer, State Highway Circle No. III quoting Finance Department order no. 5428F dated 19.12.1966 and 4026F dated 22.04.1974 converts some of the work-charged employees into permanent regular establishment w.e.f. 01.08.2002. However, the list of 24 employees who were absorbed in permanent establishment does not have the name of Sandhya Sarkar, the deceased employee, mother of the applicant. Sandhya Sarkar died-in-harness on 11.04.2012. The office order converting some of the work-charged employees into permanent establishment was issued in 2002. Since, the name of Sandhya Sarkar was not part of the office order as mentioned above, it is to be appreciated that legal heirs of work-charged employees cannot take support of such office order and claim employment on compassionate ground. This office order of 2002 appears to have been a special case by which the Government in the Finance Department agreed for such conversion, merely citing such example cannot entitle legal heirs of work-charged employees at a later date to claim the same benefits. The Hon'ble High Court, Calcutta in W.P.S.T. 99 of 2020 : Sujit Dalui-Vs-Principal Secretary, Public Works Department explained that by virtue of being work-charged employee will not, ipso facto give any right the status of a Government employee. Thus a dependant family member of the deceased family of a work-charged employee cannot claim of a compassionate employment.

From the above observations, the Tribunal has come to this conclusion that the applicant, being the son of a deceased work-charged employee, is not entitled for an employment under compassionate ground and the respondent authority were right when they took the decision regarding his prayers. Thus, finding this application devoid of such merit, it is disposed of without passing any orders.

S.M.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)