

ORDER SHEET

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-745 of 2022

Baishakhi Mondal -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Mrs. S. Das,
Ld. Advocates.

08
21.05.2024

For the State Respondents : Mrs. S. Agarwal,
Ld. 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 reference from the Additional Director of Health Services (Personnel) dated 10.05.2022 of Directorate of Health Services had communicated to the Chief Medical Officer of Health, 24 Parganas (North) the decision of the competent authority regretting the prayer of the applicant for employment under compassionate ground. Such regret was on the ground that the applicant being the divorced daughter had filed a divorce suit on 30.11.2017 which was after the death of her father, the deceased employee, who had died on 28.02.2017. The respondent authority had relied on provision 3(dd) of 26-Emp. of the Labour Department. Submitting on behalf of the applicant, Mr. Roy draws attention to 3(c) of Labr/419/Law dated 04.11.2022 and submits that the earlier provision of 3 (dd) under Emp-26 has been deleted and substituted by a new clause which is, as under:

“3(c) daughter (including legally adopted daughter before death or incapacitation or missing)”

By virtue of this amendment, daughters, whether married or unmarried or divorced are now entitled for employment under compassionate ground. Mrs. Agarwal, learned counsel appearing on behalf of the State respondent agrees. Since it has been made clear that the new rule under Emp 419 makes all daughters irrespective of their marital status eligible for compassionate employment, the Tribunal finds the impugned order passed on 10.05.2022 rejecting this applicant's prayer for compassionate employment ss untenable and not enforceable by any law.

With this observation, the impugned order dated 10.05.2022 is quashed

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and set aside with a direction to the respondent no. 3, the Director of Health Services to reconsider the prayer of the applicant for employment on compassionate ground in the light of 3(c) of Labr/419/Law dated 04.11.2022 and pass a speaking and reasoned order within a period of three months from the date of communication of this order and communicate the same to the applicant within two weeks thereafter.

Accordingly, this application is **disposed of**.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM