

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. - OA 768 of 2017

SAGARIKA ROY - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mrs. S. Mitra, Advocates
<u>12</u> 08.02.2021	For the Respondents	: Mr. G.P. Banerjee, Advocate

The matter is taken up by the single Bench pursuant to the notification no.949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

The matter has come up under the heading "Admission Hearing".

As prayed for by Mrs. S. Mitra, learned advocate for the applicant, let the Additional Chief Secretary, Home & Hill Affairs Department, Government of West Bengal, Nabanna, Howrah be added as party respondent no.1(a) by amending the cause title in course of this day.

Though directions were issued on 16th February, 2018, directing the respondents to file reply, till date no reply has been filed.

In this application, Sagarika Roy, the applicant, has prayed for a certain reliefs, the relevant portion of which is as under:

- "a. An order be passed commanding the Respondents and each of them to forthwith consider granting the prayers of the petitioner in accordance with law by following due process with all consequential benefits
- "b. An order be passed quashing and / or setting aside the impugned MEMO No.820/RO dated 12.9.2016 as the same is liable to be set aside with a direction upon the respondent authorities to consider your applicant's

ORDER SHEET

Form No.

SAGARIKA ROY

Vs.

Case No. **OA 768 of 2017**

THE STATE OF WEST BENGAL & ORS.

prayers afresh with all consequential benefits and”

It appears from the application that the mother of the applicant Sandhya Roy, since deceased, had been working as Head Clerk in 8th Battalion, Armed Police Force, Lat Bagan, Barrackpore and had expired on 5th October, 2012 before superannuation. In the year 2011 the applicant got married. Unfortunately, since the marriage was annulled by ex-parte decree of divorce on 16th February, 2016 and she was divorced and her mother had expired and as her father became senile and she had nobody to look after her, she filed an application for compassionate appointment on 5th May, 2015.

Submission is as the respondents failed to provide a job on compassionate ground she had filed an original application, being O.A. 1189 of 2015, which was allowed by the Tribunal by an order dated 22nd April, 2016 directing the respondents to consider the case of the petitioner in accordance with law. It appears thereafter the respondent authorities had considered the matter and had passed an order contained in the memo dated 12th September, 2016, the relevant portion of which is as under:

“On scrutiny of the documents submitted by the applicant and also the enquired report submitted by the CO, SAP 8th Bn it appears evidently as follows-

- i. That Late HA, Sandhya Roy expired on 05/10/2012 during service.
- ii. Smt. Sagarika Roy, daughter of Late HA Sandhya Roy, filed divorce petition vide MAT Suit No.1087/14 in the year 2014 which clearly indicates that the Divorce suit of the applicant was filed after 02 years from the death of her mother.
- iii. Decree of divorce was passed by the Hon’ble Additional

ORDER SHEET

Form No.

SAGARIKA ROY

Vs.

Case No. **OA 768 of 2017**

THE STATE OF WEST BENGAL & ORS.

District Judge, Barrackpore on 17/03/2015.

SCN.

Examining the above and perusing the GOs – 251/Emp dated 03/12/2013 and 26/Emp dated 01/03/2016, I, in compliance of the Solemn order passed by the Honb’le Tribunal, am inclined to decide that the petition dated 16/06/2015 of the applicant is considered and duly regretted as her claim for appointment on compassionate ground does not at all meet or fulfil the ingredients as criteria strictly mentioned in the existing GOs. Accordingly the matter is hereby disposed of following the guidelines laid down in the consistent GOs.”

It is submitted by Mrs. Mitra, learned advocate, since the order is cryptic and does not consider the scheme contained in the notification No. 26/Emp dated 1st March, 2016, particularly paragraph “(b)” of the revised provision, the order may be set aside and appropriate order may be passed directing the respondent authorities to provide a job to the applicant on compassionate ground.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that the order under challenge is just and proper.

Heard learned advocates for the parties. Perused the order under challenge. I find instead of considering the case of the applicant, the Special Inspector General and Deputy Inspector General of Police, Armed Police, Barrackpore, Kolkata, the respondent no.5 has simply rejected the application by stating that it “is considered” and “regretted”. The reasons for regretting the claim of the applicant have not been spelt out.

Since inspite of direction no reply has been filed on behalf of the State authorities, the statements made in the application are deemed to be correct and admitted.

As the impugned order is cryptic, the said order is set aside and quashed.

ORDER SHEET

Form No.

SAGARIKA ROY

Vs.

Case No. **OA 768 of 2017**

THE STATE OF WEST BENGAL & ORS.

The application is allowed. Accordingly, the Additional Chief Secretary, Home & Hill Affairs Department, Government of West Bengal, Nabanna, Howrah, the added respondent no.1(a) is directed to consider the case of the applicant afresh and shall pass a reasoned order to be communicated to the parties within eight weeks from the date of presentation of a copy of this order, downloaded from the internet / website after giving an opportunity of hearing and after considering the relevant provision contained in the notification, being notification No. 26/Emp dated 1st March, 2016, particularly paragraph “(b)” thereof.

(SOUMITRA PAL)
CHAIRMAN