

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 794 of 2022

Sagarika Das - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mr. D. Sarkar, Advocate.
<u>05</u> 19.09.2023.	For the State Respondents	: Mr. S. Ghosh, 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 following facts of the case was recorded in the order dated 02.02.2023 :-

“The prayer in this application is for setting aside the impugned order of the respondents dated 01.09.2022 in which the prayer for compassionate employment was rejected for the applicant, Sagarika Das, daughter of the employee. It appears that the employee Sankar Das, Sweeper of EB, KP suffered from serious medical ailments and was not able to perform his duties. Thus, he submitted a written application before the Deputy Commissioner of Police, Enforcement Branch, Kolkata on 05.08.2014 informing about his heart disease as well as various other physical ailments and sought voluntary retirement w.e.f. 31.08.2014. In one of the medical prescriptions from N.R.S. Medical College and Hospital dated 28.01.2013, it appears he was diagnosed with left sided Intra-cerebral Haemorrhage. Later, his daughter Sagarika Das submitted an application before the respondents requesting for job under compassionate ground in view of the voluntary retirement of her father on medical ground. In the impugned order dated 01.09.2022, her application for compassionate employment was rejected

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on the ground that her father, the employee had taken voluntary retirement on medical ground without submitting any incapacitation certificate. Thus, the application does not confirm the Notification No. 251-EMP dated 03.12.2013 and 26-EMP dated 01.03.2016.”

Today, Mr. Sarkar files a supplementary application enclosing some documents. Reference is being made to documents at pages 7 and 8 which appears to be a disability certificate for handicapped person issued by the M. R. Bangur Hospital. This certificate signed by the Chairperson and Superintendent of the Handicapped Board mentions 60% Handicapped and diagnosed with post CVA right-sided hemiparesis. The date of issue of this certificate is shown as 04.03.2023.

Appearing on behalf of the respondents, Mr. Ghosh submits that this certificate is not valid for the reason that this is not a certificate as per proviso of Clause 10(a) of 251-Emp notification. Further, such certificate of having permanent incapacitation should have been submitted within two years from the date of voluntary retirement. The applicant's father had taken voluntary retirement with effect from 31.08.2014.

After careful consideration of this matter, it is the observation of this Tribunal that after a lapse of eight years from the date the voluntary retirement came into effect, Sagarika Das, the applicant submitted a plain paper application for compassionate employment before the respondent which was received by them on 10.02.2022. As per Clause 10(a) of 251-Emp notification (amendment 26-Emp dated 01.03.2016), such an application for employment under compassionate ground ought to have been submitted within two years. Such delay has not been explained anywhere in this application. Also evident is the fact that no medical certificate issued by a medical board was submitted by

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the applicant's father within two years of voluntary retirement. Today, a certificate from M. R. Bangur Hospital has been submitted, which is too late to serve any purpose.

In conclusion, the Tribunal is of the view that the submission of such a certificate which is also to be verified, after a delay of eight years is not permissible under the Rules for employment on compassionate ground.

Accordingly, the application is disposed of without any order.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A)

HS/SM