

ORDER SHEET
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-801 of 2023

Shila Devi & Anr. - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

06
15.05.2025

For the Applicant : Mr. G.P. Banerjee,
Mr. S. Chatterjee,
Learned Advocates.

For the State Respondents : Mr. S.N. Ray,
Learned 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.

By filing this application, the applicants have prayed for setting aside the impugned letters of the respondent dated 01.04.2022 and 10.10.2023. The primary impugned letter dated 01.04.2022 addressed by the Additional Secretary to the Milk Commissioner, Animal Resources Development Department considers the application for appointment on compassionate ground and regrets the same. Submission of Mr. Chatterjee, learned counsel for the applicants is that this impugned rejection order is not based on facts and is not legally tenable because the reasoned order so passed does not give any specific ground for such rejection.

Bindeswar Jha, the father of the applicant died while in service on 18.12.2013 while working as Darwan Grade-I/Watchman in the office of the Directorate of Dairy Development, Central Dairy, Kolkata. Shila Devi, the widow, after the death of the deceased employee filed applications before the respondent authorities on 03.02.2014 praying for an employment under compassionate ground for her son, Bhukhan Kumar Jha, the applicant herein. The respondent

authority formed a Departmental Committee which in its report did not recommend the case on the ground that the applicant was not found eligible for such an employment, although, no specific reason was mentioned in the Memo 765 dated 01.04.2022 for such rejection. But during the hearing of this matter, the respondent authority presented a copy of the Enquiry Report. This Enquiry Report finds that the total gross income of the family exceeds 90% of the gross salary last drawn by the deceased employee. Taking into account, the Family Pension, Death Gratuity, Group Insurance and Leave Encashment and other income, the amount comes to Rs. 20,571/- per month where last salary drawn by the deceased employee was 21,876/-. The figures shown in the statement as income of the family has not been disputed. However, Mr. Banerjee, learned counsel argues that Family Pension and other retiral benefits cannot be considered as part of the income of the family while deciding the eligibility of the applicant for an employment under compassionate ground. Mr. Banerjee relies on a judgement of Hon'ble Supreme Court of India decided on 05.05.2000 in Balbir Kaur & Ors. Vs. Steel Authority of India Limited. A close reading of the judgement shows that the matter relates to Steel Authority of India Limited, a Government of India Public Sector Undertaking, whereas the present case of the applicant relates to State Govt. of West Bengal. Further, a close reading does not satisfy that the Hon'ble Supreme Court of India in the case referred to had clearly decided that pension and other retiral benefits cannot be clubbed together as part of the gross family income. It is a well settled law that an employment under compassionate ground is a need based Scheme. The family members, in particular, the applicant for such employment must succeed in fulfilling

all the eligibility criterias laid down in the Scheme. One of the most important eligibility criteria under the Scheme relates to the financial situation. It has to be well established to the satisfaction of the employer that due to death of the earning member, the family has been passing through serious financial difficulties. The respondent authority by giving specific figures has successfully established the fact that the total gross income of the family has exceeded 90% of the gross monthly salary last drawn by the deceased employee and those figures are not disputed by the applicant.

Therefore, with the above observation and not being satisfied with the prayer, this application is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)