

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Member (A)

Case No. – OA-851 of 2021

Sandip Barik VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

:

Mr. G.P. Banerjee,
Mrs. S. Agarwal,
Mr. S. Pal,
Learned Advocates.

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16.11.2022

For the State
Respondents

:

Mr. A. De,
Departmental Representative.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

In this application the prayer is for setting aside the order of the respondent dated 09.08.2017 and 21.06.2019. The matter relates to an application for compassionate employment. It appears that the applicant applied for compassionate employment which was enquired and rejected on the ground that the financial condition of the family is strong and, therefore, the family is not in dire necessity of compassionate employment. The rejection order appearing at page 46 which has given detailed financial picture of the family's income. The comment of the enquiry committee on the application is quoted hereunder :-

“In view of the facts and circumstances, the Enquiry Committee would not recommend the employment of prayee i.e. Sandip Barik S/o Late barid Baran Barick,

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Ex.-Gr.-I N.G. on the compensatory ground as the family received per month a high amount before the expiry of his father.”

Being aggrieved with such rejection order, the applicant moved this Tribunal for redressal through OA-723 of 2018 in which the Tribunal directed the respondent to consider the factual aspect as stated in the representation on 23.11.2017 and to take a decision and communicate the same by way of passing a reasoned and speaking order.

In compliance with the Tribunal's order, the respondent considered the matter and passed a reasoned order rejecting the application for compassionate employment on the ground that the monthly income of the family of the deceased did not fall below 90 % of the gross monthly salary of the family before death. The respondent while rejecting the application quoted para 6(a)(i) of Notification No. 251-Emp dated 03.12.2013.

Submission of Mr. Banerjee is that the impugned order of the Respondent dated 21.06.2019 is bad in law and it does not comply with the order of the Tribunal given in OA -723 of 2018 on 29.01.2019. Mr. Banerjee submits that the order of the Tribunal was a direction to the respondent to consider the matter on the basis of the representation submitted by the applicant on 23.11.2017. The rejection order has not considered the representation at all and rejected the application without any reference to the representation; therefore, the rejection order is

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not in compliance of the Tribunal's order. Hence, this may be set aside with a direction to the respondent to re-consider the matter as per order of the Tribunal dated 29.01.2019.

Mr. De in his submission on behalf of his department refers to para D,E and other relevant paras of the reply and submits that it was very clear that the applicant was not in financial distress and, therefore, the compassionate employment was not applicable for the applicant. However, it appears that neither in the impugned order of 21.06.2019 nor in the reply submitted by the respondents, there is any reference or mention about the representation submitted by the applicant on 23.11.2017. In fact, the Tribunal's order dated 29.01.2019 was a clear direction to the respondent to dispose of the matter after considering the representation of the applicant dated 23.11.2017.

After hearing both the sides and examining the records, it is clear that the impugned order passed by the respondent dated 21.06.2019 does not refer and considered the representation of the applicant dated 23.11.2017. Therefore, the order dated 29.01.2019 has not been complied. Therefore, the impugned order of the Respondent dated 21.06.2019 is set aside and quashed and direction is given to the Respondent No. 1, Secretary, Land & Land Reforms Department to reconsider the matter after taking into consideration the representation of the applicant dated 23.11.2017 as was directed by the Tribunal on 29.01.2019 in OA -723 of 2018 within a period of 12 (twelve) weeks from the date of communication of this order. The reasoned order passed

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by the respondent No. 1, shall be communicated to the applicant within a period of two weeks thereafter. Accordingly, OA is disposed of.

SAYEED AHMED BABA
MEMBER (A)

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