

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- 904 of 2016

Smt. Rumna Jash Das -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Ms. M. Roy Dey,
Ld. Advocate.

For the State Respondents : Mrs. S. Agarwal,
Ld. Advocate.

20
13.06.2024

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 mother of the applicant had died while in service working as a Group-D employee under the Department of Health & Family Welfare on 12.01.2012. Previously, due to incapacitation, she had prayed before the authorities for transfer of her job to her daughter, the present applicant. However, after the death, the applicant had preferred plain paper applications before the respondent authorities for appointment on compassionate ground. Copies of plain paper applications submitted on 10.02.2012 and 22.11.2012 soon after the death of her mother are available in this application. Since such applications were not being entertained and responded by the authorities, the applicant filed an application before this Tribunal. This Tribunal in OA 516 of 2014 directed the Director of Health Services to consider the matter and pass a reasoned order. In terms of such direction, the Director of Health of Services passed his reasoned order on 31.08.2015 regretting the request of the applicant for such an employment. This application has been filed before this Tribunal praying for setting aside the same reasoned order. In the reasoned order, the Director of Health Services observes that her plain paper application was not followed up by submission of the proforma application which is mandatory under the relevant rules. Besides, such non-submission of the proforma application, the Director of Health Services also noted that her prayer was “not just” and not in conformity with the rules. Further, the Director of Health Services regretted the application on the ground that the applicant was already a married person at the time of death of the deceased employee.

Submitting on behalf of the applicant, Ms. M. Roy Dey contends that though the applicant was already a married person at the time of death of her

Form No.

Case No. **OA-904 of 2016**

Vs.

The State of West Bengal & Ors.

mother but the respondent authorities failed to acknowledge the fact that she along with her family members were entirely dependent on the mother's income. The counsel also submits that the issue of not submitting the proforma application cannot be blamed on the applicant for the reason that it is the responsibility of the office of the respondent to help and guide the applicant who may not be fully educated and familiar with the office procedures.

In response, Mrs. Agarwal submits that the existing rules do not allow an applicant as a married daughter for such employment. Further, she observes that the applicant's side has not presented a case to the satisfaction of the respondent authorities that despite being a married woman, she was entirely dependent on the income of her mother. Therefore, as per the Rules, a married woman not dependent on her parents income, are not entitled for compassionate employment.

From the submissions of the learned counsels and records in this application, the Tribunal observes that the question of whether the applicant was a married daughter at the time of death of her mother or not is a secondary issue. The primary issue to be examined is whether this applicant, even though married at the time of death of her mother was entirely dependent on the earnings of her mother or not. It is clear that though soon after the death of her mother, the applicant was successful in submitting a plain paper application but being a married daughter, she has not been able to present convincingly her dependence on her mother's financial resources. The Hon'ble High Court in CAN 12495 of 2014 in the matter of "*Arpita Sarkar v. The State of West Bengal & Others*" had observed the following :

"..... It, however, goes without saying that after the need for compassionate appointment is established in accordance with the laid down formula (which in itself is quite stringent), a daughter who is married on the date of death of the concerned Government employee while in service must succeed in her claim of being entirely dependent on the earnings of her father/mother (Government employee) on the date of his/her death and agree to look after the other family members of the deceased, if the claim is to be

Form No.

Case No. **OA-904 of 2016**

Vs.

The State of West Bengal & Ors.

considered further.....”

In several matters and in particular a matter reported in (2015) 7 SCC 412, the Hon'ble Apex Court had observed that mere death of a Government employee in harness does not entitle a family to claim for compassionate employment. Such conditions are required to be examined in the case of dependent family members of the deceased employee. But in this case, the applicant being a married daughter does not seem to be dependent on the earnings of the mother. The Tribunal is not satisfied that the applicant being married and having her own family was living under the shelter given by the mother nor her family was being managed by the resources of her mother's income. On the other hand, the application also mentions that her husband earn some income from working in a cloth shop.

Having examined this application in detail and not being satisfied with the justification of the applicant for an employment under compassionate ground, this application is **disposed of** without passing any orders.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS