

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. –OA-905 of 2017

Kajem Ali. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mr. G. P. Banerjee, Mr. Z. Haque, Advocates.
<u>17</u> 10.08.2022.	For the State Respondents	: Mrs. S. Agarwal, Advocate.

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 496-WBAT/1E-08/2003 (Pt.-II) dated 4th August, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In the application, Kajem Ali – the applicant, has challenged the order dated 20th July, 2017 passed by the Secretary, Department of Forest, Government of West Bengal – the respondent no. 2 on various grounds.

It appears earlier the applicant had moved an application which was disposed of by an order dated 1st October, 2015 passed in OA-373 of 2015, the relevant portion of which is as under :-

“In our opinion, the query raised in Item No. 6 of the aforesaid Memo. dated 23.11.2010 has been squarely answered. Since all other requirements as asked for in the aforesaid Memo. has been fulfilled, we would now direct the D.F.O. to take a decision on the basis of the existing materials that have been furnished in terms of his aforesaid Memo. in question in respect of the prayer for compassionate appointment of the present Applicant. Such decision must be arrived at within five weeks from the date of receipt of this order and thereafter the same should be communicated to the Applicant forthwith.

The Application is accordingly disposed of.”

Since the said order was not complied with, an application for

Form No.

Kajem Ali.

Case No. **OA-905 of 2017.**

Vs.

The State of West Bengal & Others.

contempt, being CCP-168 of 2016 was filed wherein a compliance report was filed, the relevant portion of which is as under :-

“7. That it is also pertinent to mention that a proposal for appointment on compassionate ground in respect of the applicant, Md. Kajem Ali has already been sent from the office of the Principal Chief Conservator of Forests & Head of Forest Force, West Bengal to the Forest Department vide letter no. 13640/PMC/D1/7P-3(1833)/16 dated 29.03.2017.”

It is submitted by Mr. G. P. Banerjee, learned advocate for the applicant, since it is evident from the annexure-‘C’ to the original application, also an annexure to the compliance report, that the State respondents have found that the present income of the applicant falls below 90% of the last salary drawn as per report of enquiry committee and as it is also evident from the intimation dated 29th March, 2018 by the Additional Principal Chief Conservator of Forests, Human Resource Development, West Bengal that the Department Enquiry Committee constituted as per the Government order has also recommended the case of the appointment of the applicant on compassionate ground, the impugned order dated 20th July, 2017 may be set aside and direction may be issued to consider the matter afresh in the light of the judgement passed by the Supreme Court on 20th May, 2022 in Civil Appeal No. 4103 of 2022 (Arising out of S.L.P.(Civil) No. 936/2022) : Malaya Nanda Sathy-Vs-State of Orissa and others.

Mrs. S. Agarwal, learned advocate for the State respondents relying on the reply filed submits that since the annual income of the applicant is twelve thousand rupees as evident from the affidavit of the applicant, no order may be passed.

Form No.

Kajem Ali.

Case No. **OA-905 of 2017.**

Vs.

The State of West Bengal & Others.

Heard learned advocates for the parties. Since it is evident from the memo dated 20th May, 2015, being annexure-‘C’ to the application that it was found under the head ‘Rectification’ that “*the present income of the applicant falls below 90% of the last salary drawn as per report of enquiry committee*” and as it is evident from the intimation by the Additional Principal Chief Conservator of Forests, Human Resource Development, Department of Forests, West Bengal, being annexure-‘F’ to the application that “*the Department Enquiry Committee constituted as per Govt. order has also recommended the case for appointment on compassionate ground*” in my view, the finding in the impugned order at page 61 of the application that “*the plain paper application submitted by Md. Kazem is without date*” is of no significance as the applicant was called for hearing before the enquiry committee.

Therefore, the impugned order dated 20th July, 2017 appearing at page-61 of the application is set aside and quashed. The application is allowed. Accordingly, the Principal Secretary, Department of Forests, Government of West Bengal – the respondent no. 2 is directed to consider the matter afresh and shall pass a reasoned order to be communicated to the parties within a period of eight weeks from the date of presentation a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing to the applicant and after considering documents which were annexed to the compliance report in the matter regarding CCP-168 of 2016 and after taking into consideration the law laid down in Malaya Nanda Sethy (Supra).

(SOUMITRA PAL)
CHAIRMAN

S.M.