

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. – OA 913 OF 2016

AIZED SHEIKH - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

22
18.02.2022

For the Applicant

: Mr.Masud Karim
Mrs.Ranjana Talapatra
Advocates

For the State respondents

: Mr. Biswa Priya Roy
Mrs. Sunita Agarwal
Advocates

Though the matter has appeared under the heading "To be Mentioned", Mr.M.Karim, learned advocate for the applicant prays since the matter is pending since 2016, the matter may be taken up for hearing and necessary order be passed to which Mr.B.P.Roy, learned advocate for the State respondents does not oppose. .

In this application, Aized Seikh, the applicant, has prayed for certain reliefs, the relevant portion of which is as under:

" a) To pass necessary order to re-consider the prayer for employment on compassionate ground in setting aside the order impugned (as Annexure 'E' to the application);"

The relevant portion of order under challenge is as under:

" It appears from the death certificate of late Puspa Rani Sharma that the name recorded there was Puspa Sharma w/o Late Baidya Nath Sharma but in the filled up proforma application the name of Md. Kabatulla Sheikh has been mentioned as husband of the deceased employee.

It also appears from the 3 Men Enquiry Committee Report that one Late Baidya Nath Sharma was the 1st husband of the

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deceased employee and they had two sons and two daughters. After the death of her 1st husband, Puspa Rani Sharma got married to one Kabatulla Sheikh. They have two sons. The petitioner is the youngest one.

One scrutiny of documents it is seen that the 3 Men Enquiry Committee did not recommend the prayer of the applicant and based upon the report of the enquiry committee the prayer was rejected by the competent authority.

In view of the above, I am of the opinion that:-

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The criteria for employment on compassionate ground as laid down by the terms & conditions of 567(100)- EMP / EMP/1M-141/97 dated 18th November, 1997 issued by the Labour Department, Government of West Bengal, are not fulfilled in the instant case.

Hence, the application of the petitioner cannot be considered in his favour. The relief, as sought for, in this application of the petitioner can not be granted and as such the application is rejected.”

Earlier directions were issued for filing reply and rejoinder. Reply and rejoinder have been filed and are on record. It appears that the order under challenge passed was pursuant to the direction passed on 23rd September, 2011 in OA-740 of 2011 (Aized Sheikh -Vs- State of West Bengal. It appears that Puspa Rani Sharma, an employee working as GDA at Amtala Hospital under the BMOH, Amtala, District Murshidabad had expired on 21st August, 2000 leaving behind two sons of her previous husband late Baidya Nath Sharma who

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are living separately and two sons of the present husband Md.Kabatullah Sheikh. The applicant is the younger son of Md. Kabatullah Sheikh. It has been stated in the paragraph 9 of the reply filed on behalf of the State respondents that an inquiry was conducted and in the inquiry report it was stated that

“ In the Enquiry report it was stated that Wazid Ali Shaikh, the eldest son of the deceased government employee refused to give his no objection in favour of the applicant. The prayer of the applicant alongwith the report of the enquiry committee was sent by the C.M.O.H., Murshidabad to the Director of Health Services by Memo No CMOH/MSD/Estt-IV/112 dated 06/10/2003. After receiving the said Memo dated 06/10/2003 the prayer of the applicant was rejected by the authority as the Enquiry Committee did not recommend the applicant for compassionate appointment.”

It is submitted by Mr.Karim that since the applicant has the requisite qualification for being appointed as Group-D post, appropriate order may be passed after setting aside the order under challenge.

Mr.B.P.Roy, learned advocate appearing on behalf of the State respondents submits that since one of the sons of Md. Kabatullah Sheikh.- Wazid Ali Shaikh refused to give no objection in favour of the applicant for compassionate appointment, the state authorities declined to give compassionate appointment to the applicant.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, since it appears from the reply filed on behalf of the State that Wazid Ali Shaikh, the eldest son of the deceased Government employee refused to give his no objection for the applicant to be employed which is not reflected from the order under challenge considering the said fact, the order under challenge is set aside and quashed.

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The application is allowed. Accordingly, the Secretary, Department of Health and Family Welfare, Government of West Bengal is directed to consider the matter regarding employment of the applicant on compassionate ground afresh and shall pass a reasoned order within fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing to the applicant, to Wazid Ali Shaikh, the eldest son of the deceased employee and other interested parties and after making necessary inquiry and after verifying the records.

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN

BLR