

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 923 of 2016

Sumita Majumder -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

15
21.12.2022

For the Applicant : Mr. M. Karim,
Ms. P. Chakraborty,
Ms. S. Khatoon,
Ld. Advocates.
For the State respondent : Mr. M.N. Roy,
Ld. 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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

In this Miscellaneous Application, the prayer is for condonation of 1710 days delay in preferring the OA 923 of 2016. Before this prayer is considered, it is necessary to examine the matter of OA 923 of 2016. In brief, after the death of the applicant's father in 2005, the applicant made an application for compassionate employment for Group-C post. She appeared in the written test and after qualifying, she appeared in the type test. However, in a number of type tests she could not qualify. The matter was also filed in the High Court in WPST No. 106 of 2016, which was dismissed by the Division Bench after observing that the petitioner was not interested in securing any job on compassionate ground. Learned counsel for the applicant, Mr. Karim refers to the impugned order appearing at page 29 in which a sentence appears to be indicating that the applicant may apply for other eligible post under exempted category. Mr. Karim submits that since the applicant could not qualify as a Group-C candidate, now she may be given liberty to apply for a Group-D post.

Mr. Roy, learned counsel appearing for the State respondents refers to the prayer of the applicant appearing at para 9 of page 5 in the Miscellaneous Application in which the applicant has stated that way back on May 24, 2010, she alleged to have made a prayer for appointment to the post of Peon. Submission of Mr. Roy is that the question of giving liberty to the applicant to apply for the post of Group-D at this stage is not relevant since as stated

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above, the applicant had already made such a prayer before the respondent in 2010. However, it is also pointed out that no copy of such prayer is available in the record.

It appears this case of compassionate employment was heard and dismissed by the Hon'ble High Court, Calcutta in 2016 after finding no merit in the matter with regard to Group-C post. It is also clear that the applicant as the legal heir seems to be more interested in a post of Group-C and been expecting such a post from the respondent although repeatedly failed in Typing test. It is now only after dismissal by the Hon'ble High Court, the applicant appears to have showed interest in a Group-D post. This is also being contested by the learned counsel for the respondent that the applicant had applied for such a post in the year 2010. Now, having failed to get an employment in Group-C post and relying on a sentence of the respondent in the letter dated 20.04.2010 that the applicant may apply for any other post, it is clear that the action on the part of the applicant is rather late by 12 years. Had the applicant relying on the respondent's indication to apply for some other posts had applied for a Group-D post, then the matter would have reached its finality. Praying for a direction at this stage for a Group-D post is not only barred by limitation but consideration of compassionate employment by the Respondent cannot be a hostage to the whims and fancies of the applicant.

Considering the above, the MA for condonation of delay of 1710 is **rejected**.

Accordingly, the OA is also **disposed of**.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS