

ORDER SHEET

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 927 of 2016

Upen Baskey -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. D.K. Mukherjee,
Ld. Advocate.
For the State respondent : Mrs. S. Agarwal,
Ld. Advocate.

23
27.04.2023

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.

The prayer in this application is for setting aside the reasoned order passed by the respondent under Memo. No. 645(8) dated 12.07.2017 which passed in terms of direction given by the Tribunal in OA-118 of 2016 (Upen Baskey v. State of West Bengal & Others). The above impugned order rejected the application for compassionate employment on the primary ground that their deceased parents as Resham Karmees were never absorbed in the regular establishment as Group-D employee. They were temporarily appointed on ad hoc basis as Resham Karmee vide G.O. No. 3406-Cot.(1) dated 14.06.1996 and continued to work in this capacity and were never absorbed in permanent establishment.

Mr. D.K. Mukherjee, learned counsel appearing on behalf of the applicant, however, does not agree to the above reason. In his opinion, the legal heirs of the deceased employee have received family pension under West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971. Since the legal heirs are recipient of family pension, it implies that the deceased employees were regular employees and absorbed against existing vacancies. Moreover, Mr. Mukherjee refers to a Government Notification No. 425-Cot.(1) dated 24.03.2005 in which it is stated that all 1335 members of Casual/Seasonal workers, who were absorbed in the Sericulture Directorate in 1996 in a new cadre, "Resham Karmee" were in the regular establishment. Such employees were entitled to the benefits of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 from their dates of absorption in regular

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establishment as Group-D employees. Relying on this Notification, Mr. Mukherjee submits that this applicant was also a part of the 1335 members of the cadre Resham Karmee.

In response to the above submissions, Mrs. S. Agarwal, learned counsel appearing on behalf of the respondent authority submits that the present applicant, legal heir of the deceased Resham Karmee was not entitled for compassionate employment since the deceased employee was never absorbed in the regular establishment. This was considered in the reasoned order passed by the Commissioner of Textiles and Sericulture on 08.07.2016. Further, Mrs. Agarwal submits that receiving family pension by the legal heir does not confer any right of compassionate employment. In fact, family pension and compassionate employment are not related and complimentary to each other. Therefore, a family of the deceased Resham Karmee may receive a benefit like family pension but to be entitled for compassionate employment, it has to be governed by the set of rules that govern compassionate employment. Attention is also drawn to an order No. 2008-Cot.(II) dated 06.07.2000 in which it is stated that the Government will not agree for compassionate employment in respect of Resham Karmees as these posts are “supernumerary” and these posts will become non-existent as and when such Resham Karmee dies or retires.

After hearing the submissions of the learned counsels and considering the facts and circumstances of the case, the Tribunal is of the opinion that though the legal heirs may be receiving family pension but their claim for compassionate employment has to be governed by a set of government scheme issued through different Notifications. Nowhere in the appointment nor anywhere in the service, the Government has indicated anything about the Resham Karmees being entitled for compassionate employment. In fact, on the contrary, the Government Notifications quoted above amply make it clear that the post of Resham Karmees are supernumerary and are not to be considered in regular establishment. Therefore, their claim for compassionate

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employment is not to be considered. It is also observed that although, Mr. Mukherjee relies on 425-Cot.(1) in which it appears that a total of 1335 Resham Karmees were granted benefits under the West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971, however, he has not established the fact that this applicant's father as Resham Karmee was part of this 1335.

In view of the above observations, the Tribunal has come to the conclusion that this application for compassionate employment has no merit and the reasoned order passed by the respondent on 08.07.2016 in terms of the Tribunal's order is valid.

Accordingly, this application is **disposed of.**

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS