

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN.

Case No. – OA 953 of 2017.

BISWADIP BANERJEE-VS-THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order For the Applicant : Mr. G.P. Banerjee, Advocate.

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16.6.2022 For the State Respondents : Mr. M.N. Roy, Advocate.

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

Let Vokatnama filed by Mr. G.P. Banerjee, learned advocate on behalf of the applicant be kept on record.

At the very outset, Mr. Banerjee submits that since there is a typographical error in prayer 'a' of the application, leave may be granted to correct the same in course of this day.

Leave granted.

In this application, Biswadip Banerjee, the applicant has filed the application praying for certain reliefs, the relevant portion of which is as under :-

“a) An order directing the respondent authorities to quash and/or set aside and/or modify the impugned Memo dated 15.10.2015 which is Annexure “A/14” to this application and to direct the respondent authorities specially the respondent no. 6 to appoint your applicant in a Group “D” post under Public Health Engineering Department or other Department of State of West Bengal under dying in harness category forthwith;

b) An order directing the respondent authorities to consider the representation submitted by the applicant on 28-8-2017 to the respondent No. 6 forthwith;...”

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It appears that Dip Chand Banerjee, the father of the applicant, a Group D staff under the Public Health and Engineering Department, had expired on 13th March, 2003 while in service leaving behind Mallika Banerjee, his wife and Biswadip Banerjee, the son, the applicant. Family Pension was sanctioned in favour of the wife of the deceased. Subsequently, the mother of the applicant filed an application on 4th December, 2003 to the Executive Engineer, - the respondent no. 4 for a job on compassionate ground under the died in harness category. It appears from records that the Chief Engineer by an intimation dated 15th March, 2010 suggested Mallika Banerjee to resubmit the prayer for job on behalf of her son, that is the applicant. Consequently, the applicant filed an application on compassionate ground, which was rejected as evident from the intimation dated 15th October, 2015 issued by the OSD and Ex-Officio Special Secretary to the Government of West Bengal, - the respondent no. 6.

Mr. Banerjee submits that since on the suggestion of the respondent authorities, the applicant, as evident from the intimation dated 15th March, 2010, had filed an application for appointment on compassionate ground, the rejection order is bad in law and be set aside and quashed and appropriate order be passed appointing the applicant on compassionate ground.

Mr. M.N. Roy, learned advocate appearing on behalf of the State respondents, relying on the reply, submits that the applicant has not stated in the application that after the application of Mallika Banerjee was rejected, the applicant had filed this application for compassionate appointment. Submission is that the order of rejection is just and proper.

In reply it is submitted by Mr. Banerjee that the order rejecting the application of Mallika Banerjee for compassionate appointment in died in harness category was never served on her.

In order to appreciate the issue, it is appropriate to refer to the

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relevant portion of the intimation dated 15th October, 2015, which is as under :

“.....ii) Sri Biswadip Banerjee, S/O. Late Dipchand Banerjee, prayed for employment on compassionate ground after 6 years 3 months 20 Days from the date of death (13/03/2003) of his father.

iii) The candidate was 12 years 1 Month 15 Days of age when his father died i.e. Sri Biswadip Banerjee was under age at the time of death of his father...”.

One of the two grounds on which the application of the applicant praying for compassionate appointment was rejected is that the said application was served after six years three months twenty days from the death of his father, which occurred on 13th March, 2003 and the applicant on the relevant date was twelve years one month fifteen days. In this regard, it is appropriate to refer to the intimation dated 15th March, 2010 issued by the Chief Engineer to Mallika Banerjee appearing at page 45 of the application, which is as under :-

“...With regard to the subject mentioned above, the undersigned is to suggest her to resubmit the prayer for job on behalf of her son Sri Biswadip Banerjee. She is requested to contact the Superintending Engineer, Mechanical Circle-II, PHE Dte. as soon as she receives this letter....”.

Since Biswadip Banerjee, the applicant had filed this application for appointment on compassionate ground pursuant to the suggestion as contained in the letter dated 15th March, 2010 issued by the Chief Engineer, the impugned order dated 15th October, 2015 rejecting the application of the applicant for compassionate appointment cannot be sustained and is thus set aside and quashed. The application is allowed. Accordingly, the Principal Secretary to the Government of West Bengal , Public Health and Engineering Department, Kolkata , - the respondent no.1 is directed to consider the application of the applicant for compassionate appointment afresh in the died

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in harness category 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, after verifying the records and after considering the circulars prevailing at the time of submission of the application by the applicant and without being influenced by the order dated 15th October, 2015, which has been set aside.

(SOUMITRA PAL)
CHAIRMAN.

Sk.