

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

Case No. – OA 964 of 2018

Susanta Bagdi - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. G.P. Banerjee, Mr. R.K. Mondal, Ld. Advs.
<u>15</u> 05.02.2021	For the State Respondent	: Mrs. S. Mitra, Ld. Adv.

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020, issued in exercise of the powers conferred under sub section (6) of Section 5 of the Administrative Tribunals Act, 1985.

The instant application has been filed challenging the impugned order dated 16.11.2018 passed by the Joint Secretary to the Government of West Bengal, Irrigation and Waterways Department rejecting the claim of the applicant for relaxation of minimum educational qualification. The case of the applicant was initially rejected for compassionate appointment on the ground that he is not fulfilled the minimum educational qualification for Group-D post. Subsequently, the applicant approached this Tribunal in OA-464 of 2018 which was dismissed by order dated 05.10.2018 on the ground that the applicant did not avail the alternative remedy but approached this Tribunal directly with a liberty to approach before the authority as per rules. Thereafter, the applicant approached the authority praying for relaxation of educational qualification under Rule 6B of Notification No. 251-Emp. dated 03.12.2013 which was subsequently rejected by the impugned order dated 16.11.2018 which is as follows :

“I am directed to refer to your prayer dated 11.10.2018 in respect of the order dated 05.10.2018 passed by the Hon'ble West Bengal Administrative Tribunal (WBAT) in OA No. 464 of 2018 in the matter of Susanta Bagdi V. State of West Bengal and Others and to inform

Form No.

Case No. **OA-964 of 2018**

Vs.

THE STATE OF WEST BENGAL & ORS

you that after careful consideration of your prayer mentioned above and as per prevalent rules, it has been observed that you are not possessing the minimum educational qualification i.e. Class-VIII pass as required for appointment to the post of Group-D under Government of West Bengal offices, as per extant rule and no relaxation is possible here.

So, it is regretted to inform you that your prayer as mentioned above regarding appointment under dying-in-harness category has been rejected by this Department.”

According to the applicant, from the perusal of the aforesaid rejection order, it would be evident that the rejection order is repetition of the earlier order of rejection on the ground of non-fulfilment of educational qualification and the order is not speaking and reasoned one. Therefore, the impugned order is cryptic in nature and is liable to be quashed and set aside.

The counsel for the respondent has submitted that relaxation is not a matter of right but discretionary power vested with the respondent authority and further in the reasons have been noted in the original Departmental File.

Heard both the parties and perused the impugned order. Though according to the respondents, they have noted the reasons or dealt with the representation of the applicant in detail in their original file. However, it has not been reflected in the impugned order. From the perusal of the order, it seems that they have not granted relaxation since the applicant has not fulfilled the minimum educational qualification which was in their original order of rejection for his candidature. However, it has been reflected in the impugned order whether the applicant is deserving a candidate or not for such relaxation of educational qualification.

Form No.

Case No. **OA-964 of 2018**

Vs.

THE STATE OF WEST BENGAL & ORS

In view of the above impugned order dated 16.11.2018 is quashed and set aside and the matter is remitted back to the Principal Secretary to the Government of West Bengal, Irrigation and Waterways Department to communicate the decision of the respondent with regard to relaxation of educational qualification as per rules by way of a reasoned and speaking order after granting hearing to the applicant within a period of two months from the date of receipt of the order.

Accordingly, the OA is disposed of.

The parties are directed to act upon the Website copy.

Mrs. URMITA DATTA (SEN)
MEMBER (J)

HS/SS