

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 987 of 2017.

ARPITA ROY - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

09
15.04.2024

For the Applicant : Mr. M.N. Roy,
Learned Advocate.

For the State Respondents : Mr. G.P. Banerjee,
Learned 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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

By an order of this Tribunal in OA 514 of 2014 dated 18.6.2015, the State respondents were directed to reconsider the matter in the light of judgement of Hon'ble High Court in Purnima Das Vs. State of West Bengal & Ors. reported in 2014 (2) CLJ (Cal) 325 (supra). Earlier, the respondent authority had declined to offer an employment on compassionate ground to the applicant on the ground that she being a married daughter was not entitled for such employment. Mr. Roy has submitted that till date such direction of the Tribunal as mentioned above has not been complied and in the meantime, the rules covering such employment has been amended and by Notification No, Labr/419/Law dated 04.11.2022 by which even a daughter, married or unmarried or divorced have been made eligible to apply for such employment. The relevant rule is as under :-

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Sl. No.	Existing/New Clause/Para No.	Existing Provision	Proposed Provision.
1.	Cl.3(b),3(c),3(d) of Notification No. 251-Emp dated 03.12.2023	(b) son(including legally adopted son before death or incapacitation); or (c) unmarried daughter (including legally adopted unmarried daughter before death or incapacitation); or (d) married daughter who on date of death or incapacitation was unmarried	(b)son (including legally adopted son before death or incapacitation or missing); or (C) daughter (including legally adopted daughter before death or incapacitation or missing); or (d) third gender Child(including legally adopted third gender child before death or incapacitation or missing)
2.	Para 3(dd) [new clause] added to the Notification No. 251-Emp dated 03.12.2023	(a) A divorce daughter, who has become dependent on the family, and the divorce	Omitted.

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		petition was filed before the death/permanent incapacitation of the Govt. Employee.	
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Submission is that in view of the amended Notification, the respondent authority may be directed to reconsider her application for employment on compassionate ground.

Mr. Banerjee, learned counsel on behalf of the respondent authorities submits that if such a direction be given, the same will be considered as per rules.

Having heard the submissions of the learned counsels, this application is disposed of by directing the respondent no. 2 (i) – The Principal Secretary, Department of Health and Family Welfare to reconsider the prayer for compassionate employment in the light of Notification No. Labr/419/Law dated 04.11.2022 and pass a reasoned and speaking order within four months from the date of passing of this order. Let copy of such reasoned order be communicated to the applicant within two weeks thereof.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skg.