

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-101 of 2023

Momi Das. -- VERSUS – The State of West Bengal & Others.

Serial No. and Date of order 11 07.08.2025	For the Applicant	: Mr. A. K. Das Sinha, Learned counsel.
	For the State Respondents	: Mrs. S. Agarwal, Learned counsel.
	For the Respondent No. 4	: Mr. B. L. Sahoo, Learned counsel.
	For the Respondent No. 5	: Mr. S. Samanta, Mrs. C. Chakraborty, Learned counsels.

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.

The prayer in this application is for setting aside the following part of the impugned order no. 1194 dated 27.09.2022 passed by the Principal Secretary, School Education Department :

“(i) She obtains No Objection Certificate from of her mother & other family members in her favour.”

In terms of a direction of this Tribunal dated 21.03.2021 in OA-497 of 2019, the Principal Secretary, School Education Department passed the reasoned order contained in Memo. 1194 dated 27.09.2022. This reasoned order after relying on facts of the case and views of three men Screening-cum-Enquiry Committee came to conclusion that Rubi Rani Das (Giri), the married daughter of the deceased employee is not entitled to get an appointment under compassionate ground. The reasoned order concluded that “*So, the relief as claimed by the applicant, Smt. Rubi Rani Das (Giri) in terms of the decision referred to above cannot be extended in her favour.*”

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The reasoned order further concluded that, Momi Das, the unmarried daughter and the applicant in this application *“is eligible to get compassionate appointment as being the dependent unmarried daughter of the deceased employee subject to the following conditions :*

- i. She obtains No Objection Certificate from the mother and other family members in her favour.*
- ii. She undertakes to maintain the other dependents of the family.”*

The applicant has filed this application praying for setting aside the above part of the reasoned order quoted above in Memo. 1194 dated 27.09.2022 passed by the Principal Secretary, School Education Department.

As evident from the above paragraphs, Momi Das, the applicant has been found to be eligible for an appointment under compassionate ground on the condition that such employment can be given to her provided she furnished “No Objection Certificate (NOC)” from her mother and other dependent family members, besides, she would also assure in an undertaking to maintain other dependants of the family, if such an employment is offered and accepted.

While hearing the case, it became evident that Momi Das, the applicant and daughter does not live with the mother, Shanti Rani Das. This fact was admitted by the mother, Shanti Rani Das and her sister, Rubi Rani Das (Giri). Since about 15 years ago, the deceased employee and father of the applicant had arranged for Momi Das to live with him and his second wife in another house. The mother, Shanti Rani Das lives with Rubi Rani Das (Giri) the elder married daughter who also looks after her mother.

In support of her statement to the effect that she neither lives with her mother, Shanti Rani Das nor the mother is dependent on her, Momi Das has presented certificates from the Block Development Officer, Mohanpur,

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Paschim Medinipur stating that her biological mother, Shanti Rani Das is self-dependent who receives a pension benefit payment of around Rs. 22,992/- per month. Similar to the certificate given by the Block Development Officer, Mohanpur, Paschim Medinipur, Mr. Bikram Chandra Pradhan, Member of Legislative Assembly, West Bengal and Pradhan, Mohanpur Gram Panchayat, Mohanpur Dev. Block have also issued certificates in favour of Momi Das, the applicant.

The Principal Secretary in his reasoned order relying on Notification 251-Emp. dated 03.12.2013 had put this condition for the applicant that NOC, primarily from her mother would be required and also an undertaking from the applicant stating that she will look after the dependent members of the family. Annexure-‘C’ of the Notification 251-Emp. requires an applicant to assure that other dependent members would be properly looked after. Momi Das, the applicant has already given such an undertaking before the respondent authorities. The column no. 4 of the proforma annexed with the Notification 251-Emp. requires signatures of dependent family members giving their NOC in favour of the applicant for an employment on compassionate ground. Rubi Rani Das (Giri), the elder sister is a married daughter of the deceased employee and therefore, is not dependent on the applicant, her younger unmarried sister.

Therefore, the issue to be examined is whether Shanti Rani Das her biological mother is dependent on Momi Das, her youngest daughter or not. As observed earlier, the mother has refused to give such NOC in favour of the applicant for getting an employment under compassionate ground though documents available on record reveal that Shanti Rani Das had, way back on 06.01.2016, proposed the name of the present applicant for appointment on compassionate ground.

From what has been observed through the submissions of the learned counsels and the records in this application, it is not in dispute that Shanti

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Rani Das the mother lives in her own house with Rubi Rani Das (Giri), her elder married daughter. It is also in records and not disputed that a sum of around Rs. 20, 000/- is received by Shanti Rani Das as her family pension. On the other hand, as understood and not disputed is the fact that Momi Das, the youngest unmarried daughter of the deceased employee who is the applicant herein has been living separately for the last 15 years, supposedly with her stepmother and she has no independent income of her own to sustain herself.

The impugned portion of the Reasoned Order dated 27.09.2022 had imposed a condition upon the applicant to obtain an NOC from her mother before an appointment can be issued in favour of the former. The order dated 27.09.2022 has also directed the applicant to look after other dependent members of the family. While the second condition is post facto in nature, the former condition (the impugned condition) is essentially a condition precedent to the appointment. Under the present circumstance, there is no possibility for fulfilment of the condition, for Shanti Rani would not issue NOC in favour of her daughter.

The impugned order has solely relied upon the recommendation of the 3-men Enquiry Committee. The document dated 06.01.2016 shows that Smt. Shanti Rani had earlier proposed the name of the applicant for the job. The impugned reasoned order also mentions that Smt. Shanti Rani Das had affirmed an affidavit before Ld. Judicial Magistrate on 23.10.2017 reiterating her approval for appointment of the applicant on compassionate ground. Compassionate appointment aims to provide financial relief to a family facing hardship due to the death of the primary earner. The NOC helps to ensure that the appointment on compassionate ground is made with consent of the dependents of the deceased employee. Here, the subsequent withdrawal of consent by the mother to prevent the unmarried daughter's appointment on compassionate ground defies rationality. The mother is

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receiving the family pension while the applicant has no source of income. Further, the undertaking by the applicant to maintain other dependents is sufficient to armour the interest of Shanti Rani. Moreover, NOC is to be provided by a dependent and in the present case, Shanti Rani who is the sole recipient of the family pension, can hardly be called a “dependent”. Materials on record amply clarify that the applicant is given no share by Shanti Rani from the family pension. Above all, Shanti Rani being the biological mother of the applicant can approach the court under S. 144 BNSS claiming maintenance from her daughter (the applicant), if her (Shanti Rani’s) income (family pension) would ever become insufficient for her sustenance. Thus, the impugned order ought to have done away with the requirement for NOC in the present case.

In the light of above findings and undisputed facts, the Tribunal does not find it necessary that Momi Das would require an NOC from Shanti Rani Das, the mother. The very spirit of such NOC is that a legal heir and the applicant, who after getting an employment should not neglect her dependent parents who may not be having any income of their own. Based on such spirit of law, it was made mandatory that an NOC would be required from dependent family members, particularly parents. In this case, it has been made very clear that the mother, Shanti Rani Das neither lives with the applicant, Momi Das, nor is dependent on her income. She has her own source of income through family pension and moreover, Rubi Rani Das (Giri), her elder married daughter looks after her.

Therefore, the Tribunal is of the view that such an NOC from her mother, Shanti Rani Das is not an essential requirement. The Tribunal has also been shown copies of Memo. 186 dated 04.10.2024 issued by the West Bengal Police Directorate and Memo. 2455 dated 01.10.2024 issued by the Department of Home and Hill Affairs, Police Establishment Branch. On close reading of these papers, it is understood that the Department of Home

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and Hill Affairs has done away with such NOC for compassionate appointment.

In the light of above facts and observations, this Tribunal directs the Principal Secretary, School Education Department to proceed with offering of an employment on compassionate ground to the applicant, Momi Das, without insisting on furnishing an NOC from her mother, Shanti Rani Das or other members of the family. Such employment is to be offered to Momi Das within three months from the date this order is communicated, if she is found otherwise eligible.

With the above directions, this application is disposed of.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.