

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –OA-223 of 2019

Sumudini Barman. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mrs. S. Agarwal, Advocate.
<u>15</u> 21.02.2022.	For the State Respondents	: Mr. S. N. Ray, 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.

In the instant application, Sumudini Barman - the applicant has prayed for compassionate appointment after the death of her father Bital Barman, Ex-Krishi Shramik working in the office of the Deputy Director of Agriculture (Administration), Coochbehar. Earlier on 19th December, 2017, the applicant had moved the Hon'ble Tribunal for a suitable direction to the concerned department. The Tribunal had directed the respondents to consider the application according to law. Accordingly, on 27th June, 2018 the respondents rejected the prayer on the ground that she was already married before the death of her father Bital Barman and is thus not entitled for the job on compassionate ground.

Mrs. S. Agarwal, the learned advocate for the applicant prays for re-consideration in the light of the judgment passed by the Hon'ble High Court cited in this original application in paragraph -37 and 38 at page-39 in C.A.N. 12495 of 2014 in F.M.A. 1277 of 2016 (The State of West Bengal & ors vs. Purnima Das & ors) with WPST447 of 2013 (Arpita Sarkar vs. State of West Bengal & ors) with WPST 78 of 2014 (Kakali Chakraborty (Dutta) vs. The State of West Bengal & ors) and an order passed by the Hon'ble Supreme Court of India in SLP No. 22646 of

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2016 dated 23rd July, 2019 in The State of Uttar Pradesh & Anr. –
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Mr. S. N. Ray, the learned advocate for the State respondents does not raise any objection.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, it appears that the solemn judgment of the Hon'ble High Court, Calcutta passed in the State of West Bengal & ors –versus- Purnima Das & ors dated 13.09.2017 (Annexure-‘F’ at page-25 of the original application) has not been considered by the Respondent No. 2 in dismissing the prayer for compassionate appointment of the applicant.

The three Judges Bench of the Hon'ble High Court in the aforesaid matter has been pleased to hold as follows:-

“112. Our answer to the question formulated in paragraph 6 supra is that complete exclusion of married daughters like Purnima, Arpita and Kakali from the purview of compassionate appointment, meaning thereby that they are not covered by the definition of ‘dependent’ and ineligible to even apply, is not constitutionally valid.”

In the light of the aforesaid facts and circumstances of the case, the impugned order dated 27.06.2018 (Annexure-‘E’) cannot be sustainable in law. Accordingly, the same is set aside.

As a result, the Respondent No. 1 is directed to re-consider the

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application for compassionate appointment by passing a reasoned order in the light of the principles laid down in the above judgments and communicate the same to the parties within fifteen (15) 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 and after verifying the records.

The application is disposed of.

The Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copy of the order downloaded from the website.

(SAYEED AHMED BABA)
MEMBER(A)

S.M.