

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

& The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –OA-873 of 2019.

Rabiul Islam. - VERSUS – The State of West Bengal and Others.

Serial No. and Date of order	For the Applicant	: Mr. A. Hati, Advocate.
<u>10</u> 1.10.2021.	For the State Respondents	: Mr. G. P. Banerjee, Advocate.

Though the matter has appeared under the heading “To Be Mentioned” it is submitted by Mr. A. Hati, learned advocate for the applicant since the issue is short, the matter may be taken for hearing today to which Mr. G. P. Banerjee, learned advocate for the State respondents does not oppose.

In this application, Rabiul Islam – the applicant has prayed for several reliefs, the relevant portion of which is as under :

“a) To set aside and/or quash and/or rescind and/or withdraw the order dated 12.09.2019 vide No.2844-PL/PB/2P-703/2014 passed by the Additional Chief Secretary to the Government of West Bengal and Home Secretary.

b) To set aside and/or rescind and/or quash and/or withdraw and/or nullify the Department's G.O. No.38-PL/PB/2P-703/14 dated 06.09.2019.

c) An order do issue directing the respondents, their agents, subordinates and successors to grant compassionate appointment to the applicant under the died-in-harness category in any post

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commensurate with his educational qualification as per recommendation made by the Additional Director General and Inspector General of Police forthwith without any hindrance from any quarters;”

It appears that the father of the applicant Nurul Islam, a Constable under the Department of Home Police, had died-in-harness on 31st July, 2000. Since the applicant was in financial distress, he applied for employment on compassionate ground in the exempted category. Thereafter, interview took place. However, according to the applicant, appointment was illegally withheld. Being aggrieved the applicant filed an original application, being OA-432 of 2017 which was disposed of on 7th January, 2019 by passing an order directing the respondents to take a decision with regard to the compassionate appointment of the applicant and to communicate the same within a period of three months from the date of issue of the order. Thereafter, the respondent authorities had communicated an order issued by the Additional Chief Secretary to the Government of West Bengal and Home Secretary, which is as under :

“And, whereas, in compliance with the said Order of Hon’ble West Bengal Administrative Tribunal, the undersigned took up this re-submitted proposal for compassionate appointment of the applicant Rabiul Islam, son of Late Constable / 1068, Nurul Amin and upon consideration of the reports and documents, as re-submitted, there do not appear to be sufficient grounds to alter this Department’s earlier decision taken vide G.O. No.

3838-PL dated 06-09-2016;

Now, therefore, the Government regrets its inability to re-consider the proposal for compassionate appointment of Rabiul Islam, as re-submitted.

The Order dated 07-01-2019 passed by Hon'ble West Bengal Administrative Tribunal in O. A. No. 432 of 2017 in thus complied with."

It is submitted by Mr. Hati that since the "earlier decision" dated 6th September, 2016 was not communicated to the applicant, the order under challenge is without basis. Moreover, as the State respondents in spite of directions have not filed reply, the statements made in this application are deemed to be correct and therefore, the application may be allowed.

Mr. G. P. Banerjee, learned advocate for the State respondents submits that the order under challenge appearing at page 28 of the application, is just and proper.

Since we find in spite of directions no reply has been filed controverting the statements in the original application, the statements made in the application are deemed to be correct. As it is submitted on behalf of the applicant that the "earlier decision" was not communicated to the applicant which was one of the grounds for passing the order under challenge, the order impugned cannot be sustained and is thus set aside and quashed. The application is allowed. Accordingly, the

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Secretary, Department of Home Police – the respondent no. 1, now re-designated as Additional Chief Secretary, Department of Home and Hill Affairs – the respondent no. 1, is directed to give a copy of the earlier decision taken vide G. O. No. 3838-PL dated 6th September, 2016 to the applicant within six weeks from the date of communication of this order downloaded from the internet. Thereafter, the applicant is a liberty to file representation before the respondent no. 1 in the backdrop of the said “earlier decision” within four weeks and thereafter the said respondent shall pass a reasoned order to be communicated to the applicant within fifteen weeks after giving an opportunity of hearing, after verifying the records and after considering the notifications and circulars prevailing on the date of death of the father of the applicant.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN

S.M.