

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL**Present-

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

The Hon'ble Mr. P. Ramesh Kumar, Member(A)

Case No – OA- 423 of 2019.Lisha Mitra. Vs The State of West Bengal & Others.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>2</p> <hr/> <p>04/07/2019</p>	<p>For the Applicant : Mrs. Krishna Das, Ld. Advocate.</p> <p>For the State Respondents: Mr. G. Halder, Mr. M.N. Roy, Ld. Advocates.</p> <p><i>The instant application has been filed praying for following relief;</i></p> <p>a) Direction do issue upon the concerned authorities to appointment the petitioner in their department on the ground of dying-in-harness in accordance with Law after an opportunity of personal hearing.</p> <p>b) A direction do issue upon the concerned respondent authorities to transmit all relevant records relating to the case to the Hon'ble Court so that conscionable justice may be done.</p> <p>c) To pass such other further order/orders, direction/directions as your Lordship may deem fit and proper for the ends of justice.”</p> <p><i>As per the applicant she had approached this Tribunal earlier for compassionate appointment and</i></p>	

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	<p><i>this Tribunal vide order dated 28.11.18 had directed the authority to take decision with regard to compassionate appointment as there are two claimants, by way of reasoned and speaking order. Since, there are two claimants i.e. the applicant who has been alleged to be the daughter of second wife and another claimant Smt. Purnima Mitra, claiming to be first wife. In compliance to the order, the authority had granted opportunity of personal hearing to both the parties and has passed the following order:</i></p> <p><i>“In compliance with solemn order dated 28.11.2018 passed by the Hon’ble West Bengal Administrative Tribunal in O.A.No.725 of 2018 Lisha Mitra -vs- The State of West Bengal & Ors., the applicant alongwith Smt. Purnima Mitra, 1st wife were requested to appear in my office chamber on 16.01.2019 for personal hearing. Lisha Mitra appeared in person before the undersigned 16.01.2019 and made her oral submission substantiating the averment made in the application filed before the Hon’ble West Bengal Administrative Tribunal. Smt. Purnima</i></p>	

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	<p><i>Mitra, 1st wife was also present. The parties were requested to decide the issue themselves and inform their decision on 21.01.2019. Both the parties were again requested to appear office chamber of the undersigned on 21.01.2019 to finalize their decision. The 1st wife namely Smt. Purnima Mitra appeared before me but Lisha Mitra, daughter born out of 2nd marriage did not appear.</i></p> <p><i>After due consideration of the entire matter, facts of the case and available records, I find that due to non-provision of “No Objection” from either party (viz Ms. Lisha Mitra & Mrs. Purnima Mitra) to the other party, no decision could be arrived at regarding the application for employment on compassionate grounds; Both parties have been advised to decide amongst themselves as to which one would claim the benefit of employment on compassionate grounds. They have also been advised that the other party should submit a “No Objection” certificate to that effect for</i></p>	

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	<p><i>taking further necessary action at the end of Kolkata Police.</i></p> <p><i>This is in compliance of the order dated 28.11.2018 of the Hon'ble West Bengal Administrative Tribunal in O.A.No.725 of 2018 Lisha Mitra -vs- The State of West Bengal & Ors."</i></p> <p><i>Being aggrieved with, the applicant has filed the instant application. The counsel for the respondent has raised preliminary objection with regard to the maintainability of the application as the applicant has no cause of action. It is further submitted that from the perusal of the order dated 28.11.2018 it would transpire that due to non-availability of "No Objection", no decision could be taken by the authority. Secondly she has not challenged the order and the same prayer has been made which was made in earlier OA. Therefore, he has prayed for dismissal of the OA.</i></p> <p><i>We have heard both the parties and perused the records. From the perusal of the order by the authority dated 22.01.2019, it transpires that due to non-availability of "No Objection" certificate from either of the parties the department is not in a position to take any decision as per the scheme and existing rules of the department. "No objection"</i></p>	

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GM	<p><i>certificate is mandatory for granting any compassionate appointment. Further, the said order has not also been challenged by the applicant. Therefore, we do not find any reason to entertain this application. Accordingly, the OA is dismissed being devoid of merit.</i></p> <p>P. RAMESH KUMAR MEMBER(A) URMITA DATTA (SEN) MEMBER(J)</p>	