

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 208 of 2022

Koustav Mukherjee -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

: Mr. J.R. Das,
Ld. Advocate.

For the State Respondents

: Ms. R. Sarkar,
Mr. S. Debray,
Mrs. A. Bhattacharya,
Ld. Depttl. Reps.

04

29.04.2025

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 entire Enquiry Report, which was communicated to the applicant vide memo 1777 dated 24.03.2022 is setting aside.

By an order of this Tribunal dated 26.07.2022, this application was disposed of by directing the department to consider the Enquiry Report of the Screening-cum-Enquiry Committee. After setting aside the order of the Tribunal, the Hon'ble High Court in WPST 186 of 2023 required the Tribunal "*to decide the legality of the three men enquiry committee report*".

The Enquiry Committee in its report dated 24.03.2022 had covered different aspects of the application of the applicant praying for an employment under compassionate ground. An opportunity of hearing was given and after examination of relevant documents, the Committee was of the opinion that "*the criteria related to fulfilment to the fact that the applicant is non having some dependable means of subsistence, cannot be justified*". The Tribunal finds that so far the Committee was in its legal right to express its opinion regarding eligibility of the applicant, but by adding a final sentence in their report, it clearly exceeded its brief. It concluded the report by recording the following sentence : "*and therefore, the respective prayer for getting appointment on compassionate ground cannot be considered further.*" The Committee's very purpose was to enquire and communicate to the competent authority its opinion regarding eligibility of an applicant's prayer for an employment

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under compassionate ground. This Committee, although expressed its opinion but by adding the words “*cannot be considered further*”, crossed its brief and decided that such application cannot be accepted. It is the Department of Land & Land Reforms and Refugee & Rehabilitation, which is the competent authority to decide whether an application for an employment under compassionate ground has any merit or not. It is the Department who takes the final decision in this matter. It is also clear that such report of this Committee was not or could not be communicated to the Department.

Having observed the above error made by the Committee, the Tribunal now directs the respondent no. 2, the Additional District Magistrate and District Land & Land Reforms Officer, Hooghly to constitute a new Screening-cum-Enquiry Committee in terms of para 10(d) of Notification No. 251-Emp dated 03.12.2013 and require it to complete the enquiry and submit a fresh report against the application of the applicant for an employment under compassionate ground within three (03) months from the date of communication of this order. The report of the Committee dated 24.03.2022 is set aside.

Accordingly, this application is **disposed of**.

SS/HS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)