

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. - OA 491 OF 2021

MANGALA CHOWDHURY - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. G. Haldar,
and Advocate
Date of For the State Respondents : Mr. G.P. Banerjee,
order Advocate

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19.11.2024

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 father of the applicant, Raghubar Choudhury @ Raghubir Choudhury was a Constable under the Superintendent of Police, North 24-Parganas and had expired while still in service on 12.07.2006. At the time of his death, this applicant, Mangala Chowdhury was a minor girl. In her application she has stated that her mother had on 11.04.2013 prayed for an employment as a Lady Constable. Later after attaining the age of employment, the applicant herself furnished an application for an employment before the Superintendent of Police, North 24-Parganas on 11.04.2013. The competent authority considered the matter and took the final decision which was communicated to the D.G. & I.G. of Police on 24.02.2020. The authority had observed that the applicant was only 11 years 7 months and 7 days old at the time of her father had expired. Therefore, in terms of the guidelines contained in Notification No.251-Emp dated 03.12.2013, her case was regretted. The time between her application and the final consideration, the applicant was interviewed and asked for her willingness to join the post of a G.D.A. under Health & Family Welfare Department. It also reveals that a physical test was also conducted on 11.04.2013, but the applicant was not successful. The primary contention of Mr. Mandal, learned counsel for the applicant is that the respondent authority should not have considered her case and rejected the same in terms of guidelines framed in Notification No. 251-Emp. The argument was that this notification came into force on 03.12.2013 whereas it should have been considered under Notification No. 30-Emp dated 02.04.2008 for the reason that the applicant's application was furnished prior to 251-Emp coming into force. The fact of the applicant being a minor at the time of death of his father in 2006 is not in dispute. The other important fact of the applicant submitting an application on

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11.04.2013, after around 7 years from the date of death of his father is also not in dispute. The guidelines in 251-Emp prevalent at the time of consideration of her application allows a time limit of only 2 years for submission of an application from the date of death of the employee. Though the applicant has emphasised the importance of consideration of her application under 30-Emp dated 02.04.2008, but no copy of such notification has been made available. The applicant has also not been specific to which particular provision of this 30-Emp was relevant in her case. Be that as it is, the fact of her being a minor and remaining so until 2008, if the two years relaxation is extended, cannot be ignored under the existing provision of 251-Emp her application submitted after 9 years from the date of death of the father itself was a belated application. So far Mr. Mandal's contention regarding application of 30-Emp is concerned, the Hon'ble Supreme Court of India in Civil Appeal Nos. 9280-9281 of 2014 : "*N.C. Santhosh vrs State of Karnataka & Ors.*" had held that "...the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependent of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. He is however disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee."

As it has been made clear by relevant part of the above judgement that the applicant cannot ask for consideration of her claim on the basis of any particular notification, the notification prevalent at the time of consideration is the notification to be relied on by the respondent authorities. From the above observations it has become clear to the Tribunal that the applicant has not been able to fulfil some of the important eligibility criterias of the scheme. For instance, at the time of death of her father on 12.07.2006, the applicant was only 11 years 7 months and 7 days old. Further, the Tribunal is reminded of the judgement of the Hon'ble Supreme Court the purpose of this scheme is to help the family of the deceased employee to overcome immediate financial distress. An employment under compassionate ground is neither a vested right nor can it be claimed without fulfilling the primary criterias of the scheme. By the very definition of the word "compassionate appointment" it means helping the family to overcome the immediate financial difficulties on account of sudden death of the earning member. Such an employment cannot be a claim solely on the ground that the earning member in the family

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had died while in service. In this case, the Tribunal is not satisfied that not only the applicant could meet the eligibility criteria, but no ground has been laid to manifest that the family was going through serious financial difficulties. Therefore, having no merit in this application, it is disposed of without passing any order.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.

WEST BENGAL ADMINISTRATIVE TRIBUNAL