

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 598 of 2022

Damayanti Murmu (Hansda) - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : None.

08
16.05.2024

For the respondents : Mr. S. Ghosh,
Learned Advocate.

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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has prayed for a direction to the respondent authorities to appoint her to a post on compassionate ground. Rabindranath Murmu who was appointed as a Khalasi under Kangsabati Canals Division-II had died on 29.06.2004 while in service. Submission is that the applicant being the daughter had applied for such compassionate employment and such application was also forwarded by the Sub-Divisional Officer (I & W D) to the Executive Engineer, Kangsabati Canals Division –II, Khatra, Bankura by his letter dated 22.11.2019. Submission is that such application has not been considered by the respondent authorities till date.

Submitting on behalf of the State respondents Mr. Ghosh mentions that this application is not admissible in this Tribunal for the following three reasons :-

- i) That the death of the employee had occurred in the year 2004;
- ii) Such a an application for compassionate employment was furnished by the applicant in 2018 and
- iii) That the deceased employee Rabindranath Murmu

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was a work charged employee (Khalasi) and not under regular establishment.

Further, Mr. Ghosh draws attention to the Annexure 'A' at page 12 of this application which appears to be an office order granting pay and allowances for the month of June, 2004 to Smt. Rangila Murmu, widow of the deceased employee. Specific attention is drawn to the word 'Khalasi' mentioned against the name of the deceased employee.

From the submissions of the learned counsels and the records, the Tribunal finds that after the death of Rabindra Nath Murmu on 29.06.2004, an employee appointed as a Khalasi under S.D.O, (I & W.D.) Directorate, Bankura. The widow appears to have submitted a plain paper application sometime in the month of May, 2005. The widow having submitted a plain paper application is evident from Memo 425 dated 03.08.2018 by the S.D.O., (I & W D) to the Executive Engineer, Kangasabati Canals Division No. II, Khatra, Bankura. From the same Memo, it is also evident that such a plain paper application was accompanied by other relevant documents. At a later stage, the applicant, Damayanti Murmu (Hansda) daughter of the deceased employee appears to have come into picture by replacing the application of her mother. This is evident from an official correspondence dated 22.11.2019 that refers the applicant had submitted her application in prescribed proforma before the respondent authorities. From the document it is understood that the applicant was born on 02.01.1991. With this date of birth it is also evident that she was only around 13 (thirteen) years old at the time of death of her father on 29.06.2004. Another aspect in this matter relates to a question of whether the deceased employee, Rabindra Nath Murmu was under regular

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establishment or not. Mr. Ghosh, learned counsel, however, submits that the employee had worked as a work charged Khalasi. His contention is supported by reference of the Joint Secretary in Memo 639 dated 05.03.2024. The relevant lines of the Memo are as under :-

“The undersigned is further directed to say that Rabindranath Murmu, father of the applicant herein was an Ex-Work Charged Khalasi and did not serve under regular establishment during his life time as appears from the available records and thus his dependents are not entitled to avail the benefit of compassionate appointment under dying-in-harness category.”

Dissenting with the observation of Mr. Ghosh regarding service status of the deceased employee, Ms. Maity produced a copy of pension order and service book of the deceased employee and submits that though the initial engagement of the deceased employee was as a Work charged Khalasi but subsequently he was absorbed in regular establishment. The following entry in the service book makes it clear :-

“Absorbed in regular establishment vide T.O. No. 2198 dated 08.07.1998 & S.E (1), K.C.S. No. 1092 (8) dated 08.06.1998 w.e.f. 01.07.1998”.

Having heard the submissions, the Tribunal finds the fact of the deceased employee being absorbed in regular establishment irrefutable. His pay was accordingly fixed as per ROPA-1998. He was further granted annual increments from time to time. Another unassailable document is from the Executive Engineer, Kangasabati Canals Division-I which clearly shows that the pay of the deceased employee was fixed in regular establishment w.e.f. 01.05.1997. A copy of P.P.O. is also presented in support of her submission by which Ms. Maity wants to

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drive home the point that the deceased employee was absorbed in regular establishment w.e.f. 01.07.1998.

The submissions and the records presented in this application had fully satisfied the Tribunal that the employee, Rabindranath Murmu, though initially appointed as a Khalasi was subsequently absorbed in regular establishment. Such fact is clearly recorded in the service book of the employee. A service book with its entries in it is the primary document relating to the service life of an employee. Entries in the service book and in particular, the entry in this regard of the employee being absorbed in regular establishment is an important entry and is an irrefutable proof of the fact that he was absorbed in the regular establishment. Such entry made in the year 1998 was never disputed nor modified by the Administrative Department till the employee died rendering his service on 29.06.2004. Now in 2024, the Department cannot negate the fact of his absorption and categorise the deceased employee as a work charged employee. The impugned reference 639 dated 05.03.2024 of the Joint Secretary is nonest in the eyes of law and in complete disregard to natural justice, is therefore, quashable and it is quashed and set aside.

In view of the above entry made in the service book of the deceased employee and the subsequent pay fixation of his pay with annual increments, the Respondent No. 1, Principal Secretary, I & W D Deptt. is directed to reconsider the matter and pass a reasoned order considering the prayer of the applicant for employment on compassionate ground within a period of three months and the same be communicated to the applicant within a period of two weeks thereafter.

Accordingly the application is disposed of.

sc

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