

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 96 OF 2023

PALLABI BANERJEE - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicants : Mr. A. Bhattacharyya,
and Advocate
Date of For the State Respondents : Mrs. S. Agarwal,
order Advocate

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25.04.2024

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.

On consent of the learned counsel for the applicant, the case is taken up for consideration sitting singly.

In terms of a direction of this Tribunal in O.A. 383 of 2022, the Director of Health Services passed a reasoned order on 16.09.2022. The reasoned order considered the application for employment under compassionate ground and after giving some reasons, such prayer was regretted. The mother of the applicant, who was an A.N.M. (Female) had died while rendering her service on 11.05.2003. At the time of death of the deceased employee, the applicant, being the daughter, was a minor and the father had applied for such employment on her behalf on 29.09.2003. Admittedly, it is not in dispute that the applicant was a minor and only much later on 19.08.2008, she submitted the proforma application. One of the important reasons found recorded by the respondent authority in the reasoned order is that this application was submitted by the applicant after lapse of 5 years and 3 months from the date of death of the deceased employee.

After hearing the submissions and considering the records in this application, the Tribunal finds that the fact that the applicant was a minor is not in dispute. It is also clear that the father knew that she was not entitled for an employment being a minor, but submitted one such application on her behalf. By the time she submitted her proforma application, more than 5 years had lapsed. Though this 5 years 3 months could have been relaxed for consideration under clause 10(aa) of Notification 26-Emp, but the family could not meet the two conditions, one of which is, if none in the family are eligible for such appointment. In this case, it has been made clear that the father, at the time of death of his wife, was eligible to apply for such a post, but he chose not to do so. Interestingly, he submitted a plain paper application on behalf of the applicant, who was minor at that point of

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time. It was obvious to him that a plain paper application then would help his daughter's cause when she would submit the proforma application after attaining age of employment.

Having examined the application closely, the Tribunal is of the finding that this applicant was a minor at the time of the death of the deceased employee and no matter even if a father had submitted a plain paper application, followed by her own proforma application, it still does not negate the fact that she was a minor at that point of time. Thus, the reasons given by the Director of Health Services, in his reasoned order in regretting the application for employment under compassionate ground is correct and within the framework of the law. Having observed the above, the Tribunal does not find any merit in this application and disposes of without passing orders.

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

SCN.

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