

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 81 of 2019

Mrs. L.A. Pemmila, aged about 44 years, W/o Late L.A. Ningmi, resident of Hamleikhong, Hundung, Ukhrul District, Manipur.

.....Petitioner.

-Versus-

1. The State of Manipur, represented by the Commissioner/ Secretary (Revenue), Government of Manipur, Old Secretariat, Imphal West, Manipur, Pin No. 795001.
2. The Deputy Commissioner, Ukhrul District, Government of Manipur, Pin No.-795142.

..... Respondents.

**-BEFORE-
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN**

For the Petitioner :: Mr. A. Mohendro, Advocate

For the Respondents :: Mr. Sh. Shyam Sharma, GA

Date of Hearing and
Judgment & Order :: **29.03.2023**

**JUDGMENT AND ORDER
(ORAL)**

Heard Mr. A. Mohendro, learned counsel for the petitioner and Mr. Shyam Sharma, learned Government Advocate for the respondents.

2. This writ petition has been filed by the petitioner to appoint her under the die-in-harness scheme dated 6.6.2007 within stipulated period since his juniors in the seniority list have already been given appointment, which is a clear case of violation of Article 14 of the Constitution of India and also to direct the respondents to pay family monthly pension and other pensionary benefits to the petitioner.

3. Mr. A. Mohendro, the learned counsel for the petitioner submitted that the petitioner's husband L.A. Ningmi was initially appointed as driver on 12.1.1994 in the Department of Revenue, Government of Manipur, and posted under SDO, Kasom Khullen of Ukhrul District. Unfortunately, the petitioner's husband died on 8.2.2000 due to an accident while he was in service on the duty of General Assembly Election on his return journey at Nungshangkong. The petitioner's husband had been in service continuously without any break of service and adverse remarks for more than 6 years at the satisfaction of higher authorities.

4. The learned counsel would submit that the petitioner's husband left behind four children and after the death of the petitioner's husband, the dependents are living in a very precarious situation and acute financial hardship as a consequence of the

sudden demise of the sole bread winner of the family. On 8.3.2000, the petitioner submitted a representation/application by enclosing her bio-data to the Deputy Commissioner, Ukhrul District for giving appointment to any suitable post under die-in-harness scheme. Despite the receipt of the application/representation and despite several requests made by the petitioner, her prayer for compassionate appointment has not been considered till date. However, her juniors in the seniority list were given appointment under die-in-harness scheme.

5. Adding further, the learned counsel for the petitioner submitted that the Government of Manipur abolished the die-in-harness scheme on 15.6.2002 and restored the same vide order dated 16.12.2006. Consequent upon restoration of die-in-harness scheme, the Government issued Office Memorandum dated 6.6.2007. Since no positive response from the concerned authority, on 23.2.2018, the petitioner sent a legal notice to the Commissioner (Revenue), Government of Manipur for appointment of the petitioner under die-in-harness scheme and for grant of pensionary benefits. Though the said authority received the legal notice, no action was taken till date.

6. The learned counsel for the petitioner further submitted that the dependents of the deceased have given no objection to appoint the petitioner under die-in-harness scheme. However, the respondents failed to give appointment under die-in-harness scheme for the past 16 years. After the death of the deceased Government employee, the petitioner being a widow wife, shouldering all the responsibilities including education of the children by working any available job from time to time to meet the requirement for maintenance of the family. Thus, a prayer has been made to direct the respondents to consider the claim of the petitioner for appointment under the die-in-harness scheme.

7. Heard Mr. Sh. Shyam Sharma, the learned Government Advocate for the respondents on the submissions made by the learned counsel for the petitioner.

8. There is no dispute that the petitioner's husband died on 8.2.2000 while in service and an application under die-in-harness scheme was submitted by the petitioner to appoint her to any suitable post way back on 8.3.2000, followed by another representation dated 6.5.2002.

9. It is also the claim of the petitioner that on 6.5.2002, she had submitted a representation to the Hon'ble Minister for Revenue, Government of Manipur, praying for post-facto regularization of her deceased husband while performing General Election Duty to enable her to enjoy the family pension and other facilities as per the admissible service rules of the Government employees. Despite the Under Secretary (Revenue) wrote a letter to the Deputy Commissioner, Ukhrul on 28.5.2003 for taking up necessary action regarding the family pension which she is entitled under Rule 4(f) of Order No.6/90/96-Election (Pt) dated 10.7.2000, no positive response was forth coming from the said authority, which necessitated the petitioner in sending a legal notice through her counsel on 23.2.2018 and despite receipt of the said notice, no action was taken to consider the claim of the petitioner.

10. No plausible explanation shown by the respondent authorities in squatting on the application for compassionate appointment sought by the petitioner dated 8.3.2000 though the die-in-harness scheme which was abolished vide order dated 15.6.2002 and subsequently, it was restored on 16.12.2006. The concerned authority is duty bound to consider the application of the petitioner within the time stipulated. Nothing has been produced by the

respondents to show that the petitioner is not eligible to be appointed under die-in-harness scheme.

11. It is to be mentioned that the respondent authorities have admitted the factum of submission of the applications dated 8.3.2000 and 6.5.2002 by the petitioner. In this connection, Clause (IV) of Office Memorandum dated 06.06.2017 states that *“the Head of Department concerned after considering the applications received should either submit the completed proposal to the Government for appointment under the die-in-harness scheme or reject the application within one year from the date of receipt of the application”*. The fact remains that the application of the petitioner dated 8.3.2000 was not processed as per the terms and conditions stipulated in the Office Memorandum dated 06.06.2017, particularly Clause (IV), which would clearly indicate the lethargy of the authorities concerned.

12. It is an admitted fact that the deceased employee left behind four children, namely L.A.Thokwonngam, aged 24 years; L.A.Yooreisim, aged 22 years; L.A.Phameiso, aged 19 years and L.A.Zinghorchon, aged 18 years and they have also given no objection for considering the petitioner under die-in-harness scheme.

13. Since the petitioner's application for compassionate appointment is within three years as per the Office Memorandum, it is the bounden duty of the respondent authorities to consider the case of the petitioner for appointment to any suitable post under the die-in-harness scheme.

14. It is not in dispute that the petitioner is the wife of the deceased who died while working under the respondents and after the death of the deceased, the petitioner submitted an application within one month i.e. on 8.3.2000 and thus, there was no delay on the part of the petitioner to submit the application. In fact, the delay is attributable to the respondent authorities who slept over the matter for nearly 23 years without even considering the claim of the petitioner. Therefore, there is no difficulty in believing the submission made by the petitioner that juniors have been considered for appointment under die-in-harness scheme. The materials produced by the petitioner would substantially prove that she was running from pillar to post to seek appointment under die-in-harness scheme.

15. Since no appointment has been made so far by the respondent authorities and by now, the petitioner has met the requirements as per applicable conditions and criteria as enumerated in the applicable Office Memorandums and the scheme

being a welfare scheme, it is the bounden duty of the respondent authorities to consider the claim of the petitioner in the given facts and peculiar circumstances of the case on sympathetic and humanitarian ground, as nothing has been produced by the respondent authorities to show that the petitioner is ineligible to get appointed under die-in-harness scheme.

16. Considering the overall facts and circumstances of the case, this Court is inclined to pass the following order:

- (i) The writ petition is disposed of.*
- (ii) The respondent authorities are directed to consider the case of the petitioner for appointment under die-in-harness scheme.*
- (iii) The said exercise shall be done within a period of three months from the date of receipt of a copy of this order.*
- (iv) No costs.*

ACTING CHIEF JUSTICE

FR/NFR

Sushil