

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_
WP(C) No.1005 of 2022

Smti. Lila Deb Majumder

..... *Petitioner*

V_E_R_S_U_S

The State of Tripura & Another

.....*Respondents*

For Petitioner(s)	:	Mr. A. Bhowmik, Advocate.
For Respondent(s)	:	Mr. K. De, Addl. G.A. Mr. P. Saha, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_O_R_D_E_R_

27/04/2023

Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner. Also heard Mr. K. De, learned Addl. G.A. assisted by Mr. P. Saha, learned counsel appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution of India seeking a writ of certiorari for setting aside the memorandum dated 17.10.2022 whereas the respondents have declined the prayer of the petitioner for a job under the Die-in-harness scheme. Further, directing the respondents to consider the petitioner for appointment under the Die-in-harness scheme upon death of late Sudhan Chandra Deb, father of the petitioner on 11.10.2014, who was serving as Group-D in the department of Fisheries, Govt. of Tripura and expired while in service.

The petitioner has prayed for the following reliefs:

- i. Issue notice upon the respondents.
- ii. Call for the records.
- iii. Issue rule calling upon the respondents to show cause as to why the memo dated 17.10.2022 shall not be set aside and quashed.

AND

Issue rule calling upon the respondents to show cause as to why the petitioner shall not be considered for appointment under die-in-harness upon death of late Sudhan Chandra Deb who expired while in service on 11.10.2014.

- iv. And after hearing the parties be pleased to make the rule absolute.”

The facts in brief are that the petitioner has filed this petition seeking a writ of certiorari for setting aside the memorandum dated 17.10.2022 whereas the respondents have declined the prayer of the petitioner for a job under the Die-in-harness scheme. Further, directing the respondents to consider the petitioner for appointment under the Die-in-harness scheme upon death of late Sudhan Chandra Deb, father of the petitioner on 11.10.2014, who was serving as Group-D in the department of Fisheries, Govt. of Tripura and expired while in service.

The petitioner has submitted that the father of the petitioner was serving as Group-D employee in the department of Fisheries, Govt. of Tripura and while serving as such the father of the petitioner expired on 11.10.2014. The father of the petitioner had two wives namely Mrs. Maya Rani Deb being the first wife and Smti. Kajal Deb being the second wife. The petitioner is the daughter from the first wife and there is a son namely, Sri Sujit Deb from the second wife who is mentally retarded since birth. The first wife namely, Mrs. Maya Rani Deb expired on 22.01.2016 upon demise of late Sudhan Chandra Deb, the Sub-Divisional Magistrate, Belonia issued a Survival Certificate dated 04.11.2015 whereby Smti. Maya Rani Deb (first wife), Mrs. Leela Deb (petitioner) and Sri Sujit Deb, son from the second wife were shown as survivors of late Sudhan Chandra Deb.

Subsequently, the second wife Smti. Kajal Deb, managed to procure another survival certificate dated 21.05.2018 without cancellation of the previous survival certificate dated 04.11.2015 wherein the name of the second wife along with the petitioner and the son from the second wife was also incorporated. The dispute projected in this petition is that the petitioner is a married daughter of late Sudhan Chandra Deb and this Court in the case of the State of Tripura v. Debasree Chakraborty (Writ Appeal No.80/2020) has held that a married daughter cannot be kept outside the purview of die-in-harness scheme and a married daughter is equally entitled to get job under the die-in-harness scheme the respondent No.2 rejected the prayer of the petitioner for a job under the die-in-harness scheme.

The said memo dated 17.10.2022 is without any reasons. The respondent No.2 merely came to conclusion that the petitioner was not eligible for job under the die-in-harness scheme without citing any reasons if such married daughter was dependent only income of the deceased. The petitioner had earlier filed a writ petition being WPC. No.423 of 2022 but, the same was withdrawn vide order dated 20.05.2022 with liberty to file again because of some technical flaw while filing the writ petition.

Hence, the present petition has been filed by the petitioner before this Court for redress.

Having considered the submissions advanced by the learned counsel appearing for both the parties, the present writ petition stands disposed by setting aside order dated 17.10.2022 which is under challenge and according to this Court, the said order has been passed without application of mind. It is a cryptic order. Thus, the respondents are directed to re-consider and dispose of the case of the petitioner as per law. Further, the petitioner is also at liberty to submit any other relevant documents or judgment in support of the case before the respondents.

Accordingly, the present petition stands allowed and disposed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh