

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.321 of 2024

Smt. Sangita Debbarma

..... *Petitioner(s)*

V E R S U S

State of Tripura and another

..... *Respondent(s)*

For Petitioner(s) : Mr. A. Bhaumik, Advocate.

For Respondent(s) : Mr. Kohinoor N Bhattacharya, G.A.,
Ms. Kahina Reang, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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03/05/2024

Heard Mr. A. Bhaumik, learned counsel appearing for the petitioner and also heard Mr. Kohinoor N Bhattacharya, learned Government Advocate appearing for the respondents-State.

[2] Petitioner is the elder daughter of late Bishurai Debbarma, Night Guard attached to the office of Director of Health Services, Government of Tripura who unfortunately died in harness on 19.11.2016. Petitioner has one younger sister and two younger brothers. Unfortunately, her mother also passed away on 13.09.2017. She made an application for compassionate appointment. By the impugned order dated 12.02.2024, her case was considered and held entitled to avail the benefit of Support Category-II under the scheme for compassionate appointment /benefits for Government employees of Tripura laid down in the notification dated 02.03.2019 of the GA(P&T) Department. Under that category, legal heirs of

deceased employees are paid financial assistance of one lakh only if there is an earning member in the family (Annexure-7). Petitioner has referred to the death certificate where his age was recorded as 50 years, which appears to be an approximation. There are no other documents on record to show as to what was his correct age. The survival certificate issued by the SDM, Jirania (Annexure-4) indicates that petitioner is the eldest married daughter and rest of the family members are, namely, Ms. Anita Debbarma, another daughter, Mr. Bibhishan Debbarma, aged 24 years and Mr. Bishal Debbarma, aged 16 years both sons.

[3] Learned counsel for the petitioner submits that as per the Scheme of 2019, petitioner's case ought to have been considered in the Support Category-I or III. The impugned order reflects that there is no earning member in the family to bring her case under Support Category-II. Petitioner is entitled to compassionate appointment under support Category-III if the age of the government servant is less than 50 years on the date of occurrence and there is dependent family member eligible for getting government job. If the age of the deceased was above 50 years on the date of occurrence, the family will be paid special pension amounting to difference between last drawn salary and pension in addition to the normal pension till the affected employee would have attained 60 years of age provided that there is no earning member in the family under Category-I. After attaining 60 years, only normal pension will be paid. It is submitted that the relevant factors germane to consideration of the case of the applicant has not been

taken into account while passing the impugned order. Therefore, she has approached this Court.

[4] Learned counsel for the State submits that the writ petition has been taken up for the first time and instructions are awaited. He further submits that in case this Court is inclined to remit the matter to the concerned respondents, petitioner's claim may be considered, in accordance with law, taking into account all relevant factors pleaded by her.

[5] I have considered the submissions of learned counsel for the parties and taken note of the relevant materials placed from record. The scheme for compassionate appointment/benefit of government employees of Tripura notified on 02.03.2019 by the GA(P&T) Department, Government of Tripura has been made effective from 21.11.2018. The scheme under paragraph 3 contains the nature of support to be granted to the dependents of the affected government servant which is extracted hereunder :

“3. Nature of Support

3.1. Government appointment or financial assistance of Rs.1.00 lakh (Rupees one lakh) or Rs.10.00 lakh (Rupees ten lakh) only, as the case may be depending upon the category to which the affected Government Servant belongs to.

3.2. Support Category-1

If the age of the affected Government Servant is equal to or more than 50 years on the date of occurrence, then the family will be paid Special Pension amounting to difference between last drawn salary and pension in addition to the normal pension till the affected employee would have attained 60 years of age, provided that there is no earning member in the family. After attaining 60 years of age, only normal pension will be paid.

3.3 Support Category-2

If there is an earning member in the family of the affected Government Servant, then the next of kin will be paid a lump sum ex-gratia of Rs.1.00 lakh (Rupees one lakh) only.

3.4. Support Category-3

If the age of the affected Government Servant is less than 50 years on the date of occurrence and there is dependent family member eligible for getting government job as per

eligibility criteria mentioned in this Memorandum and there is no earning member in the family, in such case suitable Government employment [Group-C & Group-D] post only shall be admissible subject to fulfilling other required qualifications as per Recruitment rules of the respective post. Such employment will be subject to availability of direct recruitment vacancy in the parent Department and maximum 15% of total available vacancy as on First April of the concerned Financial Year in the parent Department may be utilized for this purpose.

3.5 **Support Category-4**

If the occurrence date of the affected Government Servant is before attaining the age of 50 years and there is neither earning member in the family nor any dependent eligible member for Government employment, in such case one time financial assistance of Rs.10.00 (Rupees ten lakh) only shall be given to the next of kin.

3.6 **Explanation**

- i. if the candidate belongs to support category[3] does not get employment in the parent Department of the affected Government Servant within one year from the date of occurrence due to non-availability of vacancy in that Department, then the candidate may be considered for posting in other Departments with the concurrence of the Finance Department.
- ii. Eligibility to be determined as on date of occurrence of the affected Government Servant.
- Iii One family will be eligible to get only one benefit out of Support Category-1 to 4 mentioned above.

3.7. **Benefits admissible in different categories are tabulated as hereunder:**

Category	Benefit admissible	Remarks
<u>Support-I</u> Occurrence date on or after attaining the age of 50 years.	Special pension amounting to difference between last drawn salary and pension in addition to the normal pension till the affected Government Servant would have attained 60 years of age.	i. There is no earning member in the family. ii. In case of there is minor survivors, then one suitable local guardian may be declared by the Administrative Department concerned in consultation with the deceased government servant's family.
<u>Support-II</u> Occurrence date at any point of time during the entire Service	Rs.1.00 lakh (Rupees one lakh) only.	There is an earning member in the family.
<u>Support-III</u> Occurrence date prior to attaining the age of 50 years	Government job against any suitable posts (Group-C or Group-D) as per qualification of the applicant concerned	1. Applicant should be eligible for government job as on the date of occurrence. 2. No earning member in the family.

<u>Support-IV</u>	Rs.10,00,000 (Rupees ten lakh) only.	1. No earning member in the 2. family 2. Eligible dependent(s) for government job not available.
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4. **To whom applicable:** The Scheme shall be applicable to the dependent family member(s) of following categories of employees who dies while in service including unnatural death or family of missing Government employee or family of the government servants who become permanently invalid while on duty, causing incapacitation to perform government duties-

- (i) A Government servant serving under the State Government;
- (ii) Teaching and non-teaching employees of privately managed government aided schools;
- (iii) Home Guards/Woman Guards/Border Wing Home Guards.”

[6] Since the claim of the petitioner has been entertained and benefits have been granted under the scheme of 2019, the eligibility of the petitioner to be covered under the scheme is not an issue herein. It is the category under which the petitioner’s case falls, what requires to be examined. Petitioner in the pleadings has stated that she would fall in either Support Category-I or Support Category-III. There are no documents which conclusively establish as to what was the correct age of the deceased employee. The death certificate would not serve the purpose so far as the correct age of the deceased employee is concerned under Category-I, had the deceased been equal to or more than 50 years on the date of occurrence, the family would be entitled to special pension amounting to difference between last drawn salary and pension in addition to the normal pension till the affected employee attains 60 years of age provided that there is no earning member in the family. After attaining 60 years of age, only normal pension will be paid. If the petitioner’s father was less than 50 years of age as on the date of occurrence which is defined under Clause 2.3(i) as the date of death

of the Government servant in harness, the dependent family member eligible for government job as per eligibility criteria mentioned in this memorandum would be considered for suitable government employment if there is no earning member in the family subject to fulfillment of other required qualification as per recruitment rules and earmarked vacancy for the concerned financial year in the parent department under Category-III. Apparently, the impugned order does not dilate on the reasons as to why she has been granted the benefit of Support category-II instead of Category- I or III. If the case of the petitioner was eligible for other categories like Support Category-I or Support Category-III, the benefits would be substantially more.

[7] As such, petitioner appears to have a genuine grievance. However, since all relevant factors germane to be considered are not been reflected on perusal of the impugned order, this Court instead of entering into the merits of the case, deems it proper to remit the matter to the competent authority/Director of Health Services, Government of Tripura, respondent No.2 to take a fresh decision on the application of the petitioner, in accordance with law, within a reasonable time preferably 12 weeks from the date of receipt of copy of this order. In the process of reconsideration, the order dated 12.02.2024 (Annuxure-7) impugned herein shall not come in the way to the petitioner.

[8] Let it be made clear that this Court has not made any comments on the merits of the case of the petitioner. Needless to say, if the competent

authority deems it necessary to require other supporting documents from the petitioner, petitioner would be obliged to supply the same within the same period.

[9] The writ petition is disposed of in the manner and to the extent indicated above.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH) CJ

SIDDHARTHA LODH

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