

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.89 of 2022

1. The State of Tripura, represented by the Principal Secretary to the Government of Tripura, Department of Law, Government of Tripura, New Capital Complex, P.O.-NCC, Agartala, West Tripura.

2. The State of Tripura, represented by the Principal Secretary to the Government of Tripura, Department of Finance, Government of Tripura, New Capital Complex, P.O.-NCC, Agartala, West Tripura.

----Appellant(s)

Respondents No.1-4 in writ petition

Versus

1. Smt. Mitali Biswas @ Mitali Biswas (Kar), D/o. Rakhal Chandra Biswas, W/o. Lt. Prasunjit Kar, residing at Dhalia, Ward No.5, Sonamura Nagar Panchayat, P.O.-Sonamura, Pin-799131.

----Respondent

(Petitioner in writ petition)

2. The Tripura State Legal Service Authority, represented by its Executive Chairman, Office at-Melarmath, East Bank of Melarmath Dighi, Agartala, West Tripura, Pin-799001.

3. Member Secretary, Tripura State Legal Service Authority, Office at-Melarmath, East Bank of Melarmath Dighi, Agartala, West Tripura, Pin-799001.

----Proforma Respondent(s)

Respondents of the writ petition

For Appellant(s)	:	Mr. Kohinoor N. Bhattacharyya, GA
------------------	---	-----------------------------------

For Respondent(s)	:	Ms. R. Purkayastha, Advocate Mr. P. Gautam, Advocate
-------------------	---	---

Date of hearing & delivery of judgment & order	:	03.10.2024
---	---	-------------------

Whether fit for reporting	:	Yes
---------------------------	---	------------

**HON'BLE MR. JUSTICE ARINDAM LODH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

JUDGMENT & ORDER (ORAL)

In this intra-court appeal, the challenge is the judgment and order dated 05.01.2022 passed by learned Single Judge(Sri Indrajit Mahanty, the then Chief Justice) in WP(C) No.577 of 2020 titled as Smti. Mitali Biswas alias Mitali Biswas (Kar) vs. The State of Tripura and Ors.

2. Short fact of the case is that the husband of Smt. Mitali Biswas, the respondent in this writ appeal was engaged as a Group-D(Class-IV) employee in the year 2003 under the Tripura State Legal Services Authority(here-in-after referred to as TSLSA) and on such engagement his service was continued till his death on 10.11.2017. Upon the death of Sri Prasunjit Kar, the deceased employee, his wife, the respondent herein made an application dated 26.12.2015 to the respondent no.3, Member Secretary of the TSLSA for consideration of her case under the Die-in-harness Scheme of the Government of Tripura. On receipt of such application, it was forwarded by the Member Secretary, TSLSA to the State Government, the appellant herein. The Finance Department of the State Government had turned down the proposal made by the TSLSA *inter alia* on the ground that the deceased husband of the petitioner was not a government employee, making her ineligible to be provided with a job under the Die-in-harness scheme. Thereafter, the authorities of TSLSA again forwarded the application of the respondent-wife with a fresh recommendation to provide her a job under the Die-in-harness scheme. The Finance Department on examining the issue vide order dated 13.07.2020 informed the authorities of TSLSA that the proposal of compassionate appointment of the respondent-wife of the deceased could not be acceded to. The said decision of the Finance Department, Government of Tripura was communicated to the respondent-wife on 08.11.2019.

3. Feeling aggrieved, the respondent-wife of the deceased employee filed a writ petition before this Court. The State Government contested the writ petition by way of filing counter affidavit wherein the State authorities have stated that the scheme for compassionate appointment is only meant for

the Government employees and not to any employee working under autonomous body.

4. While disposing of the writ petition, learned Single Judge having heard the matter held that even though, the deceased employee was not a direct employee of the State Government, there was effective control over the appointment as well as service of such employee, equated with that of a State Government employee. Learned Single Judge further held that the intention is to relieve the family of the Government servant from financial destitution and to help them get over the financial hardship by way of providing employment to one of the eligible dependents of the deceased Government servant. Ultimately, learned Single Judge allowed the writ petition setting aside the orders passed by the Finance Department dated 08.11.2019 and 13.07.2020 and directed the State authorities to approve the proposal made by the Member Secretary, TSLSA in favour of the petitioner within a period of 4(four) weeks from the date of pronouncement of the judgment. It was further directed that upon such approval being granted, the respondents-TSLSA shall take such necessary steps immediately thereafter in accordance with the Die-in-harness scheme of the Government of Tripura dated 26.12.2015.

5. Being aggrieved by and dissatisfied with the said order dated 05.01.2022, the State of Tripura has preferred the instant intra-Court appeal before this Court.

6. We have heard Mr. Kohinoor N. Bhattacharyya, learned GA appearing for the State-appellant(here-in-after referred to as 'State') as well as Ms. R. Purkayastha, learned counsel appearing for respondent-wife(here-in-after referred to as 'writ petitioner' and Mr. P. Gautam, learned counsel appearing for respondent-TSLSA.

7. Mr. Bhattacharyya, learned GA has submitted that learned Single Judge has committed an error in interpreting Rule 14 of Tripura State Legal Services Authority (Conditions of Service and the Salary and Allowances of the Officers and other Employees) Rules, 2012(here-in-after referred to as 'Rules of 2012'). Learned GA has further submitted that the learned Single Judge while allowing the writ petition has not considered the fact that the scheme was only confined to (i) the employees of the State Government, (ii) teaching and non-teaching employees of privately managed Government aided schools. According to learned GA, when a scheme or a statute particularly refers to a class of persons for extending certain benefits, those benefits would only be confined to those persons and the Court is not empowered to extend the scope of its applicability, which, learned Single Judge has ignored while holding that the writ petitioner is eligible for compassionate appointment under the prevalent Die-in-harness scheme framed by the State-respondents.

Mr. Bhattacharyya, learned GA has placed reliance on a decision of the Hon'ble Supreme Court in ***The State of Maharashtra & Anr. vs. Bhagwan & Ors.***, and other connected matters reported in **2022 LiveLaw (SC) 28**. The relevant portion of the judgment may be reproduced as under:

"10.2 In the case of T.M. Sampath and Ors. Vs. Secretary, Ministry of Water Resources and Ors. (supra), the employees of National Water Development Agency (NWDA), an autonomous body under the aegis and control of Ministry of Water Resources claimed the pensionary benefits on par with the Central Government employees. Refusing to allow such pensionary benefits to the employees of NWDA on par with the Central Government employees, in paragraphs 16 and 17, it was observed and held as under:-

"16. On the issue of parity between the employees of NWDA and Central Government employees, even if it is assumed that the 1982 Rules did not exist or were not applicable on the date of the OM i.e. 1-5-1987, the relevant date of parity, the

principle of parity cannot be applicable to the employees of NWDA. NWDA cannot be treated as an instrumentality of the State under Article 12 of the Constitution merely on the basis that its funds are granted by the Central Government. In Zee Telefilms Ltd. v. Union of India [(2005) 4 SCC 649], it was held by this Court that the autonomous bodies having some nexus with the Government by itself would not bring them within the sweep of the expression "State" and each case must be determined on its own merits. Thus, the plea of the employees of NWDA to be treated on a par with their counterparts in the Central Government under sub-rule (6)(iv) of Rule 209 of the General Financial Rules, merely on the basis of funding is not applicable.

17. Even if it is presumed that NWDA is "State" under Article 12 of the Constitution, the appellants have failed to prove that they are on a par with their counterparts, with whom they claim parity. As held by this Court in UT, Chandigarh v. Krishan Bhandari [(1996) 11 SCC 348], the claim to equality can be claimed when there is discrimination by the State between two persons who are similarly situated. The said discrimination cannot be invoked in cases where discrimination sought to be shown is between acts of two different authorities functioning as State under Article 12. Thus, the employees of NWDA cannot be said to be "Central Government employees" as stated in the OM for its applicability."

As per the law laid down by this Court in a catena of decisions, the employees of the autonomous bodies cannot claim, as a matter of right, the same service benefits on par with the Government employees. Merely because such autonomous bodies might have adopted the Government Service Rules and/or in the Governing Council there may be a representative of the Government and/or merely because such institution is funded by the State/Central Government, employees of such autonomous bodies cannot, as a matter of right, claim parity with the State/Central Government employees. This is more particularly, when the employees of such autonomous bodies are governed by their own Service Rules and service conditions. The State Government and the Autonomous Board/Body cannot be put on par."

8. Mr. Gautam, learned counsel for the respondent-TSLSA has submitted that the employees of the State Legal Services Authority are similarly situated as those of the employees employed under the State Government, and in view of this, the benefits of the Die-in-harness scheme should be extended to the employees of the TSLSA. According to Mr.

Gautam, learned counsel, the direction of learned Single Judge asking the State authorities to approve the recommendation made by the TSLSA was in accordance with the Act and relevant rules therein, and there is no infirmity in the order dated 05.01.2022 directing the Finance Department to approve the recommendation and consequential benefits, providing a job to the writ petitioner commensurate to her qualification.

9. Ms. Purkayastha, learned counsel for the writ petitioner adopting the submissions of Mr. Gautam, learned counsel for the respondents-TSLSA in similar tune has submitted that the employees of TSLSA are at par to the employees of the State Government. Learned counsel for the writ petitioner has also laid much emphasis on Rule 14 of the Rules of 2012 and Sub-section (6) of Section 6 of the Legal Services Authority Act, 1987. Ms. Purkayastha, learned counsel has strenuously argued that the employees of the TSLSA cannot be excluded from being provided with the benefit of the Die-in-harness scheme. It is further submitted that the TSLSA is fully controlled, financed and also is governed by State Government functionaries.

10. We have considered the submissions of learned counsel appearing for the parties and the pleadings along with relevant documents.

11. Taking note of the submissions of learned counsel appearing for the parties, according to this Court, main questions necessary to be decided in this appeal is that whether Tripura State Legal Services Authority is a Government department, and in that perspective, the deceased husband of the writ petitioner is a Government employee or not.

12. According to us, TSLSA is not a Government department and in view of this, the deceased husband of the petitioner was not a government employee.

13. Rule 2(h) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 defines Government servant, which reads as under:

“2(h). “Government servant” means a person who –

- (i) is a member of a Service or holds a civil post under the Union, and includes any such person on foreign service or whose services are temporarily placed at the disposal of a State Government, or a local or other authority;
- (ii) is a member of a Service or holds a civil post under a State Government and whose services are temporarily placed at the disposal of the Central Government;
- (iii) is in the service of a local or other authority and whose services are temporarily placed at the disposal of the Central Government;”

14. In the case of the *State of Assam and Ors. vs. Shri Kanak Chandra Datta*, AIR 1967 SC 884, a constitution bench (Five-Judge bench) of the Hon’ble Supreme Court held that under Article 311 of the Constitution of India, the post denotes an office. It is further held that a person who holds a civil post under the State holds “office” during the pleasure of the Governor of the State, except as expressly provided by the Constitution. A post under the State is an office or a position to which duties in connection with the affairs of the State are attached, an office or a position to which a person is appointed and which may exist apart from and independently of the holder of the post. In addition, it was enunciated that a post under the State means a post under the administrative control of the State.

A welfare State providing service under the framework of the Constitution of India encourages a number of public undertakings or authorities where the control lies with the State Government but their creations/establishments may be different. The patterns and the variety of these establishments are legion.

15. In case of *Barada Kanta Adhikary vs. The State of West Bengal and Ors.*, 1962 SCC OnLine Cal 60 : AIR 1963 Cal 161, it was observed that

it would be inappropriate if it include all kinds of miscellaneous and hybrid institutions, mostly private or quasi-private with aids or controls or “sponsoring” financial or otherwise from the Government are included within “civil service” or “a civil post under the State”.

[emphasis supplied]

16. TSLSA is a statutory body constituted under a Central legislation “Legal Services Authorities Act, 1987” (for short, Act of 1987). Section 6 of the Act of 1987 provides that every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State authority under this Act. For convenience, Section 6 along with its sub-sections may be reproduced hereunder:

¹[6. Constitution of State Legal Services Authority.—(1) Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

(2) A State Authority shall consist of—

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

Provided that a person functioning as Secretary of a State Legal Aid and Advice Board immediately before the date of constitution of the

¹ Subs. by s. 5, *ibid.*, for section 6 (w.e.f. 29-10-1994).

State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the State Authority shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorised by the Executive Chairman of the State Authority.

(9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the State Authority.]”

17. Sub-section 6 of Section 6 of the Act of 1987 deals with the extent of power vested with the State Government which crystallizes that the State Government shall appoint the Executive Chairman and the Member Secretary of the State authority in consultation with the Chief Justice of the High Court. Much emphasis has been laid on Sub-section 6 of Section 6 of the Act of 1987 by learned counsel appearing for the writ petitioner and the respondent-TSLSA which stipulates that the officers and other employees of the State authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

Sub-section 7 of Section 6 of the Act of 1987 provides that the administrative expenses of the State authority, including the salaries, allowances and pensions payable to the Member Secretary, officers and other employees of the State authority shall be defrayed out of the consolidated fund of the State. It is further revealed that the Member Secretary of the State authority shall be appointed by the State Government in consultation with the Chief Justice of the High Court who must be a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge. Again, the Member Secretary of the State authority shall exercise such powers and perform such duties under the Executive Chairman of the State authority as may be prescribed by the State Government or as may be assigned to him by the Executive Chairman.

18. Further, the State Government has framed Tripura State Legal Services Authority (Conditions of Service and the Salary and Allowances of the Officers and other Employees) Rules, 2012 vide notification dated 12th December, 2012 in exercise of the powers conferred by Sub-section 2 of Section 28 of the Act of 1987 read with Rules 9, 12(1), 14 and 17 of the Tripura State Legal Services Authorities Rules, 1998 in consultation with the Chief Justice of the High Court. The object of the Rules of 2012 is to regulate the method of recruitment and prescribes the salary and allowances and other conditions of the services of the officers and other employees of the Tripura State Legal Services Authority, High Court Legal Services Committee, District Legal Services Authorities and the Sub-Divisional Legal Services Committees. Rule 6 of Rules of 2012 prescribes appointing authority, which reads as under:

“6. Appointing Authority- All appointments to the service and promotions therein shall be made by the Member Secretary in consultation with the Secretary. High Court Legal Services Committee in case of High Court Legal Services Committee, the concerned District Secretary in case of District Legal Services Authority and the concerned Chairman of the Sub- Divisional Legal Services Committee in case of the Sub-Divisional Legal Services Committee, with the approval of the Executive Chairman.”

On plain reading of Rule 6 of Rules of 2012, it is crystallized that the State Government has no administrative control or authority in the matter of appointment and method of recruitment of the officers and staffs/employees of the State Legal Services Authority. The State Government only made the rules in consultation with the Chief Justice of the High Court.

19. From the constitution of the said authority, it comes to fore that a committee of TSLSA is constituted in terms of the provisions made under Section 6 of the Legal Services Authority Act, 1987. So, TSLSA is a creature of a Statute and is not established by any act or rules of the State Government. Thus, according to us, there should not be any quarrel that it is an autonomous body.

20. So, in line of the principles and legal position enunciated in the cases of ***Kanak Chandra Datta (supra)*** and ***Barada Kanta Adhikary (supra)***, according to us, it would be inappropriate to hold that mere framing of rules governing service conditions or even sponsoring financially would make the officers and employees of TSLSA holders of ‘civil post’ under the State and the service they render under the State Legal Service Authority shall be deemed service in the ‘office’ of the State as State’s ‘civil service’ cadre. As sequel, the employees of an autonomous body like State Legal Services Authority cannot be said to be government employees/servants under the State Government. In view of the aforesaid discussions, the natural conclusion is

that the deceased husband of the writ petitioner cannot be treated at par with the Government servants serving under the State Government. There is yet another aspect which we have noticed that there is interpretation clause at Clause 32 of the Rules of 1998 and Rules of 2012, i.e. Tripura State Legal Services Authority Rules. Clause 32 reads as under:-

*“32. **Interpretation.**- If any question arises as to the interpretation of these rules, the decision of the Government of Tripura thereon shall be final.”*

20.1 There is no quarrel that the Government has a significant implication in interpretation Clause in a statute or scheme also known as a ‘*finality clause*’. On plain reading of the Interpretation clause, we find that the decision of the State Government in case any question arises as to the interpretation of any of the provision of this Rules, the decision of the State Government is final. But, it is equally true that the decision of the Government is subject to judicial review if such final decision is found to be erroneous, arbitrary and violative of Articles 14 and 16 of the Constitution of India. To say it otherwise, if the interpretation made by the State, violates the Constitution or Fundamental Rights or decision suffers from vice of malice, Court can definitely interpret. However, if the Court finds that the decision of the State Government is consistent to the provisions enumerated in the Act and Rules, then, the courts would have limited power to exercise its power of judicial review. In the instant case, we do not find the decision of the State Government suffers from arbitrariness that TSLSA being an autonomous body, its officers and employees are not entitled to the benefit of the scheme for compassionate appointment. As such, we are not inclined to interfere with communication dated 29.07.2020 whereby and whereunder the writ petitioner was apprised of the decision of the State Government regretting the

representation submitted by the writ petitioner for compassionate appointment and the proposal made by the TSLSA for consideration of compassionate appointment of the writ petitioner.

21. Now, the question to be answered is whether the scheme for compassionate appointment framed by the State Government is applicable to the employees of an autonomous body.

22. We have perused the scheme published under notification dated 26.12.2015 as well as notification dated 02.03.2019. The scheme dated 26.12.2015 was framed laying down general guidelines for the purpose of extending the benefits providing compassionate appointment to the eligible survivors/dependent family members of the government employee who dies-in-harness while in service. On perusal of the object of the scheme, it comes to fore that the object of the scheme is to extend the benefits either by offering an appointment in government service on compassionate ground or by admissible financial assistance to an eligible dependant member of family of a deceased government servant in the event of death while in service provided that there is no earning member in the family of the deceased. The intention is to relieve the family of the government servant from financial destitution and to help them get over the financial hardship. Employment would be provided to one of the eligible dependents of the deceased Government servant. As we said earlier, Government servant means the persons/employees who serve under the Government. So, on bare perusal of the object of the scheme it is crystal clear that the benefit of the scheme shall be provided to the Government servant.

23. It appears from the records that the petitioner had applied for compassionate appointment on 22.02.2018(*Annexure-f* to the writ petition).

The said application was considered and the Finance Department vide its order dated 13.07.2020 turned down the proposal on the ground of ineligibility and reiterated its earlier decision communicated on 08.11.2019. What has emerged from this fact is that on the date of consideration of the application for compassionate appointment submitted by the writ petitioner, the scheme of 2015 was superseded by the scheme of 2019 under notification dated 2nd March, 2019. It is now well settled that the application for compassionate appointment would be taken into consideration on the basis of the scheme prevalent at the time of its consideration. Since the application for compassionate appointment of the petitioner was considered in the year 2020, the guidelines framed therein would be applicable to consider the case of the petitioner. It appears that the revised Die-in-harness scheme is termed as Scheme for Compassionate appointment/Benefit for Government Employees of Tripura. The date of effect of the scheme is 21st November, 2018 as the decision was taken in the meeting of the Council of Ministers on 21.11.2018. Sub-clause (2.1) of the Clause 2 of the Scheme defines Government servant, which reads as under:

“2.1. “Government servant” for the purpose of these instructions means a Government servant appointed on regular basis and not on working on daily wage or casual or apprentice or ad-hoc or contract or reemployment basis or extension basis.

Sub-clause (2.2) of the Clause 2 of the scheme defines “Affected Government Servant” which means (i) Government servant dying-in-harness, or (ii) Government servant attained permanent invalidity while on Government duty, or (iii) Missing.

Clause 4 speaks about applicability of the scheme which reads as under:

“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 un-natural 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 Guard.

24. On perusal of the scheme, it comes to fore that the applicability of the scheme is limited to only Government servant who serves under the State Government and the other two categories of employees mentioned at Clause 4 quoted here-in-above. On plain reading of Clause 4, what has emerged is that the benefit of the Die-in-harness scheme has not made applicable to the employees of the TSLSA. Here, we may profitably refer to the maxim *expressio unius est exclusio alterius*. This maxim comes into play where a statute under consideration is plain and meaning is clear. There is no scope for applying the maxim to ascertain legislative intent. In addition, as a canon of statutory interpretation, *expressio unius est exclusio alterius*, what is expressly mentioned in one place, but not in another must be taken to have been deliberately omitted. To say it otherwise, the maxim literally means ‘*the expression of one thing is the exclusion of the other*’. In the instant case, by way of incorporating Clause 4 of the scheme for compassionate appointment, the legislature intended to provide the benefit of the scheme only to a Government Servant serving under the State Government and other categories mentioned therein, but excluded the employees not serving under the State Government.

25. Accordingly, we can easily come to a conclusion that the scheme is applicable only to a Government servant serving under the Government department run and controlled by the State Government.

26. From the nature of his engagement, it comes to light that he was engaged by the Member Secretary of TSLSA and not by any of the authorities of the State Government. *It is settled proposition of law that an organization can fully be funded by the Central or State Government, but, that does not mean that such an organization is a Government department and if an organization is not a Government department, its employees also cannot be treated as government servants.*

[emphasis supplied]

27. In view of this, the argument as advanced by learned counsel for the writ petitioner that the engagement of the deceased husband of the petitioner was made upon concurrence of the State Finance Department, it would not mean that her husband was a Government servant. It is also argued that service conditions of the deceased including pay and other allowances would be governed at par the State Government employees as prescribed under Rule 14(iii) of Rules of 2012. It is equally true that even if service conditions including pay and other allowances are allowed by State Government rules then also the employees of an autonomous body cannot be treated as Government employees/servants serving under the State Government department.

28. The overall controlling authority of the deceased husband of the writ petitioner is the authority of the TSLSA and not any of the authorities of the State Government. At the cost of repetition, the entire administrative

control and management of TSLSA are under absolute control of its Executive Chairman.

29. On consideration of the judgment passed by learned Single Judge, we find that the learned Single Judge has not considered this aspect as to whether TSLSA is a Government department/organization or an autonomous body and whether its employees can be treated as Government servants or not, which we have discussed in detail and elaborately in the preceding paragraphs. It also escaped the notice of learned Single Judge as regards the Scheme for compassionate appointment framed by the Government of Tripura limiting the scope of its applicability only towards the Government servants belonging to State Government departments and other two categories extracted here-in-above.

In our considered view, to extend the scope of applicability of the Scheme for compassionate appointment to the employees of the Tripura State Legal Services Authorities, the authorities of TSLSA has to take up the matter with the State Government so that the employees of TSLSA are brought within the purview of the Scheme for compassionate appointment and in that case, the State Government at its discretion may issue necessary notification.

30. We have already held that the deceased husband of the writ petitioner was not a Government servant under the State and that the benefit of the scheme of compassionate appointment has not been extended to employees other than the government employees/servants serving under the Government departments. Accordingly, the writ petitioner is not entitled to get the benefit of the scheme for compassionate appointment as framed by the Government of Tripura.

31. Having discussed the law and facts relevant to the issue raised in this appeal and for the reasons recorded here-in-above, we find merit in the present writ appeal. Accordingly, the writ appeal preferred by the State stands allowed and the orders dated 08.11.2019 and 13.07.2020 passed by the Finance Department are restored as legally valid in the eye of law. As sequel, the order of the learned Single Judge directing the State authorities (appellants herein) to approve the proposal made by the Member Secretary, TSLSA in favour of the petitioner being not sustainable in law stands set aside.

JUDGE

JUDGE



सत्यमेव जयते

Snigdha

SANJAY GHOSH Digitally signed by
SANJAY GHOSH
Date: 2024.11.04
15:31:44 +05'30'