

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.566/2022

Sri Surja Sekhar Deb, S/O. Late Gouranga Deb, resident of Village-Durganagar, P.O.-Paiturbazar, P.S. & Sub-Division-Kailashahar, Unakoti Tripura.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, represented by its Secretary, Revenue Department, Government of Tripura, P.O.-Civil Secretariat (Capital Complex), P.S.- Capital Complex, Agartala, Tripura West, PIN-799010.

2. D.M. & Collector, Khowai District, P.O. & P.S.-Khowai, Khowai Tripura.

3. Block Development Officer, Teliamura R.D. Block, P.O. & P.S.-Teliamura, Khowai Tripura.

4. Director, Panchayat Department, Government of Tripura, Agartala, West Tripura.

.....Respondent(s).

For Petitioner(s) : Mr. Sankar Lodh, Advocate,
Mr. S. Majumder, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

26/09/2024

Heard Mr. Sankar Lodh, learned counsel appearing for the petitioner and Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the respondents-State.

2. The claim of compassionate appointment of this petitioner has been dismissed vide letter dated 16.11.2020 (Annexure-17) issued by the Director of Panchayats, Government of Tripura. However, he has been granted one time financial assistance of Rs.75,000/- vide memorandum dated 31.05.2019 (Annexure-10).

3. The background facts are as under:

Mother of the petitioner died on 13.06.2002 during childbirth. Father of the petitioner died on 26.08.2013 while working as a Group-D employee under the respondents when the petitioner was only 11 years 02 months old. He was taken care of by his uncle through whom he was represented. A representation was made on 26.08.2014 for considering his case for compassionate appointment on attaining 18 years of age. The claim for compassionate appointment has been rejected as in all the schemes, i.e. of the year 2005 superseded by 2015 scheme and then the scheme of 2019 superseding the earlier schemes, relaxation of only one year below the eligibility age of 18 years was permissible. Such consideration could only be made of the dependent of an employee died in harness if was not less than 17 years on the date of death of the deceased employee.

4. Learned counsel for the petitioner submits that the factual background of the case of the petitioner is quite stark and makes out an exceptional case for the respondents to exercise their power to relax under Clause-15 of the die-in-harness scheme of 2015 as it is a beneficial legislation. Therefore, interference may be made in the impugned order.

5. Learned counsel for the State has opposed the prayer. He submits that die-in-harness scheme is framed by the employer which permits relaxation for one year, i.e. up to the age of 17 years in case the dependent is minor on the date of death/date of occurrence but not beyond that. Since the scheme has been framed by the Government, this Court in exercise of writ jurisdiction should not endeavour to rewrite the scheme by lowering the age limit as it may also create bad precedents. It is further submitted that the respondents have

accorded due consideration to the claim of the petitioner and provided one time financial assistance of Rs.75,000/- on 31.05.2019 though such claim was made after considerable delay. As such, no exception may be made even though the case of the petitioner may be stark.

6. On consideration of rival submission of parties and also the materials placed on record, this Court is of the considered view that since the petitioner was only 11 years 02 months old on 26.08.2013 at the time of death of his father in harness, compassionate appointment at this length of time would be opposed to the very nature of the die-in-harness scheme which is intended to provide succor to the dependents of the deceased employee immediately after the death to prevent them from destitution and lack of source of sustenance. Since the scheme provides relaxation of one year only below 18 years, i.e. up to 17 years, petitioner who was only 11 years 02 months old at the time of death of his father on 26.08.2013 could not have a legitimate claim for compassionate appointment in those circumstances.

7. Compassionate appointment scheme is framed by the Government which is an exception to the general rule of public employment as mandated under Articles 14 and 16 of the Constitution of India. Any such claim can be made strictly in accordance with the scheme framed by the employer. In the above circumstances, this Court is not satisfied that the respondents could be directed to invoke the power to relax when the applicant was only 11 years 02 months old at the time of death of his father in order to grant him compassionate appointment.

8. As such, the writ petition being devoid of merit is dismissed. The amount of one time financial assistance, if not released, be released without any delay by the respondents.

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

(APARESH KUMAR SINGH), CJ

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