

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 549 of 2024

Mrs. Arjuna Begam

---Petitioner(s)

Versus

The State of Tripura and 5 Ors.

---Respondent(s)

For Petitioner(s)	:	Mr. P. K Pal, Advocate. Mr. S. Datta, Advocate.
For Respondent(s)	:	Mr. M. Debbarma, Addl. GA.
Date of hearing and date of judgment and order	:	28.11.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order

Heard learned counsel for the parties.

[2] This is a petition under Article 226 of the Constitution of India for seeking the following relief(s):

(i) Admit the Instant Writ Petition.

AND

(ii) Issue rule calling upon the respondents to show cause as to why a writ in the nature of mandamus or like nature shall not be issued upon the respondents to set aside the impugned letter dated, 21.06.2023 (Annexure - 8) and to release the Group Insurance Money (Rs. 1,50,000/-), after adjusting the insurance premium by way of monthly subscription of Group Insurance, in favour of the petitioner on premature death of her husband Lt. Md. Sahidul Mia, which is also covered by the Judgement & Order dated, 29.05.2020 of this Hon'ble High Court of Tripura in W.P.(C) No. 990 of 2018, Shri Manik Sarkar (widower of Lt. Ali Bhowmik) Versus The State of Tripura & Ors (Annexure 11) & impugned Judgement & Order dated, 29.06.2021, passed in W.A. No. 464 of 2020, The State of Tripura & Ors. Versus Shri Manik Sarkar (Annexure-12).

AND

(iii) After hearing the parties to make the Rules absolute.

And

(iv) To pass any other relief/reliefs, this Hon'ble High Court may deem fit and proper in the facts and circumstances of the case.

[3] It is the case of the petitioner that the petitioner's husband Md. Sahidul Mia, now deceased, entered into Government service w.e.f. 03.12.1999 in the post of Asst. Teacher, Pry. Estt. for the period 1 (one) year and thereafter it continued by passing necessary order and after completion of more than 30 (thirty) years of qualifying service, Md. Sahidul Mia, prematurely died in harness on 10.07.2021. As per Group Insurance

Scheme 1983 introduced for the State Government Employees, Clause No. 1.1 of 'Membership' as well as 'Application' caption of the scheme.

MEMBERSHIP:

1.1. "The scheme will be compulsory for all those 'employees' who enter State Government service after the scheme is notified i.e. all those employees entering State Government Service after the date of notification of the scheme will be compulsorily covered under the 'scheme' from the date it comes into force".

APPLICATION :-

The 'scheme' shall apply to all State Government servants. Contract employees, persons on deputation from the Central Government and other State Governments, public sector undertakings, or other autonomous organizations, persons appointed on contract, casual labourers, persons paid at daily rates, persons not in whole time employment, persons in seasonal employment, persons appointed in short term vacancies and ad-hoc employees will not be covered by the 'scheme'. The 'scheme' will also not apply to persons recruited under the State Government after attaining the age of 50 years."

[4] It is contended by the counsel for the petitioner that the deceased Md. Sahidul Mia, Ex. A / T, joined in the Government service in the year 1990 A.D., when the GI Scheme was very much in force and was mandatorily applicable to his service condition as per Clause 1.1 of the Group Insurance Scheme 1983 to treat him a "Member" of the Scheme. It was obvious and compulsory on the part of the employer-respondents to deduct subscription from monthly salary against Group Insurance Scheme. The deduction of subscription against this scheme was in the entire responsibility on the employer authority. Moreover the deceased employee Lt. Md. Sahidul Mia did never exercised his option to be opted out of the GI Scheme.

[5] It is further contended by the petitioner that the employer authority was duty bound to deduct the Group Insurance Subscription regularly from the salary bill of the concerned employee as soon as an employee joins in service. The employee concerned cannot be held liable for non-deduction of GI subscription from his/her monthly salary bill as per rule. On premature death of the employee, the heirs and successors viz, the widow- petitioner cannot be deprived of getting the Insurance benefit as extended under the scheme. Therefore, the prayer dated, 13.01.2023 made by the petitioner, claiming the benefit under the Group Insurance Scheme cannot be turned down/denied by the respondents, taking irrelevant and imaginary plea. The family of the

deceased employee viz. the petitioner cannot be suffered due to sheer negligence and laches on the part of the respondents. Hence, the respondents jointly and severally liable to pay the Group Insurance money to the petitioner to the tune of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand) as per notification dated, 22.05.2009, issued by the Finance Department (Group Insurance) Government of Tripura under reference No. F. 12 (7) - GIS/08/954.

[6] On the contrary, Mr. M. Debbarma learned Addl.GA for the respondents has submitted before this court that Group Insurance is an insurance scheme which is prescribed only for government employees and it is essential to fulfill some criteria to be a member of this scheme. As a part of this, it was mandatory as per criteria of Education Department, Tripura to submit the paper of 'Until Further Order' issued from Directorate of Education, Agartala subject to the record the same in the concerned service book of the employee as well as entry is to be recorded as a member of GI in the same after the 'Until Further Order'.

[7] Heard both sides.

[8] Having perused the record, this court is of the opinion that for the wrong committed by the employer-respondents, the petitioner cannot be deprived of his legitimate right. It is seen from the record that the date mentioned in the Form-16 of the husband of the petitioner is 30.03.2017 and the petitioner's husband died on 10.07.2021. It is also seen from the reply dated 02.06.2023 given by the respondent to the demand notice dated 10.06.2023 which is impugned herein that Form-16 of income tax of the husband of the petitioner was submitted for the following financial years (i.e. Financial Year 2017-18, 2018-19, 2019-20, 2020-21). Moreover, it is contended by the Addl. GA that based upon submission of the Form-16, the petitioner cannot claim group insurance. This court is not inclined to believe the reasons as advanced by the respondents for denial of the petitioner's claim. A bare reading of the record makes it clear that it was the sheer

negligence on the part of the respondents for not allowing the prayer of the petitioner. After serving the respondents for long thirty years, it is expected that the employer will extend all the benefits due to his employees in accordance with law. But here is the case, where for the fault of the employer-respondents, the petitioner (the wife of the deceased employee) has approached before this court seeking nothing more than what was due to the petitioner.

[9] In view of above discussion, the instant writ petition stands allowed and disposed of. The respondents are directed to grant the group insurance along with all consequential benefits to the petitioner as expeditiously as possible preferably within a period of two months from the date of receipt of the copy of this order.

[10] With the above observation and direction, this present writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.



JUDGE