

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.1031/2022

Miss Roshmi Saha, D/O. Late Dilip Kumar Saha, aged about 21 years, resident of East Shibnagar, Near Anik Club, P.S.-East Agartala, P.O.-Agartala College, District-West Tripura, PIN-799004.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, represented by its Secretary, Public Works Department, Government of Tripura, P.O.-Civil Secretariat, Agartala, PIN-799010.
2. Superintendent Engineer, Second Circle, PWD (R & B), Government of Tripura, Agartala.
3. Chief Engineer, PWD (R & B), Government of Tripura, Agartala.
4. Executive Engineer, W.R. Div-II, Pandit Nehru Complex, Gorkhabasti, Agartala, Tripura, PIN-799010.

.....Respondent(s).

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

For Respondent(s) : Mr. Dipankar Sarma, 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. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. Father of the petitioner while working as Electrician died in harness on 14.04.2017 when the petitioner was only 14 years 09 months old. Her application for compassionate appointment was forwarded by the respondent No.4 to respondent No.3 on 22.09.2017. However, petitioner was informed vide letter dated 16.08.2019 (Annexure-5) that her case could not be considered as she was less than 17 years of age on the date of death of deceased. Subsequently, by order dated 23.09.2022 (Annexure-8), petitioner

has been informed that she had already been granted a sum of Rs.1,00,000/- as one time financial assistance in lieu of compassionate appointment vide memorandum dated 06.03.2019. Being aggrieved by non-consideration or rejection of the claim of compassionate appointment, petitioner has approached this Court.

3. Learned counsel for the petitioner submits that in the circumstances of the case, the respondents may be directed to exercise the power to relax under Clause-15 of the 2015 die-in-harness scheme.

4. Learned counsel for the State has strongly 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.1,00,000/- on 06.03.2019 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.

5. 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 14 years 09 months old on 14.04.2017 at the time of death of her 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 14 years 09 months old at the time of death of her father on 14.04.2017 could not have a legitimate claim for compassionate appointment in those circumstances.

6. 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, consideration of 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 14 years 09 months old at the time of death of her father in order to grant her compassionate appointment.

7. 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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