

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 366 OF 2008

- 1. Smt. Indrapati Debbarma,**
W/o Sri Dilip Debbarma, (Ex-Constable)
(No.907110008, under BSF),
Resident of Bilash Cherra,
P.O. Baligaon,
P.S. Kamalpur,
Tripura, Dhalai.
- 2. Sri Diksha Debbarma(minor),**
Daughter of Sri Dilip Debbarma,
Represented by her mother Smt. Indrapati Debbarma,
Resident of Bilash Cherra,
P.O. Baligaon,
P.S. Kamalpur,
Tripura, Dhalai.

.... **Petitioners.**

- Vrs -

- 1. The Union of India,**
Represented by the Secretary,
Ministry of Home Affairs,
New Delhi-1.
- 2. The Commandant,**
34- Battalion (BSF),
Border Security Force,
Gokulnagar HQ,
P.S. Bishalgarh,
Bishalgarh, Tripura West.
- 3. Dy. Director General, (BSF),**
South Head Quarter,
Border Security Force Complex,
P.S. R.K.Pur, Udaipur,
Tripura South.

.... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the Petitioners : Mr. G.S. Bhattacharjee, Advocate.

For the respondents : Mr. P. Majumder, Advocate.

Date of hearing & : 25.02.2015.
Delivery of judgment
and order.

Whether fit for Reporting : NO

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

On 17.12.2014 we had passed a detailed order which reads as follows:-

“One of the main issues which arises in this petition is, whether the husband of the petitioner namely, Sri Dilip Debbarma son of Lt. Bichitra Debbarma, is suffering from some serious mental disability whereby he is even unable to attend work.

The allegations in the petition are that on 17.01.2004 Sri Dilip Debbarma proceeded on two days Casual Leave. It is alleged that thereafter he suffered from serious mental depression and, therefore, could not join duty.

We realize that almost 10 years have elapsed and it may not be possible for the doctor to opine clearly whether Sri Dilip Debbarma was in such a mental stress that he could not rejoin duty in the year 2004.

Having said so, we want to find out whether he is actually suffering from any mental problem or not. Therefore, the petitioner is directed to produce her husband, Sri Dilip Debbarma, before Dr. Jiban Chakraborty a retired ‘psychiatrist’ at Kadamtala near T.R.T.C office, Krishnanagar, Agartala along with the entire record of treatment received by Sri Dilip Debbarma.

On the basis of the record and the examination of Sri Dilip Debbarma Dr. Chakraborty is requested to submit a report to this Court stating,

(1) whether in his opinion the husband of the petitioner, Sri Dilip Debbarma, is mentally unfit to look after his own interest?

(2) whether this mental disability, if any, is persisting for a long time and whether it is possible to clearly indicate what is the length of this disability?

*The petitioner is directed to make sure that she produces the entire medical record before Dr. Chakraborty. If she does not produce the record an adverse inference may have to be drawn against her. The petitioner is also directed to remain present before Dr. Chakraborty on **12th January, 2015** and thereafter, on any date or dates which the doctor*

fixes and are convenient to him. The respondents, if they so desire, may also depute some doctors or experts of their choice who can remain present in the chamber of Dr. Chakraborty.

The tentative fees of Dr. Chakraborty is fixed at Rs.5,000/- and the respondent Union of India is directed to pay this amount to Dr. Chakraborty. The realization of this amount shall be subject to the final decision of this petition.

The report be submitted by 20th February, 2015.

*List on **25th February, 2015.***

- 2.** Dr. Jiban Chakraborti has submitted his report which reads as follows:-

“Date 30.01.15

Name Dilip Deb Barma, Age 45, Sex M.

Address Village Bilachera, Kamalpur.

This is to certify that as per order of Hon’ble High Court, Agartala, I have examined Sri Dilip Deb Barma, S/o. Lt. Bichitra Deb Barma on 20.01.2015 & 30.01.2015.

On careful examination of the case, it is revealed that Sri Dilip Deb Barma has been suffering from chronic schizophrenia (Mental Disorder). At present he is unable to judge what is good or bad for him.

It appears that he has been suffering from Mental Disease for last few years.

*Sd/-
(Dr. Jiban Chakraborti)
Reg. No.5095 (AMC)
30.1.15.”*

- 3.** According to this report, the husband of the petitioner No.1, Dilip Debbarma, is suffering from chronic schizophrenia for the last few years. Dr. Chakraborty has been unable to clearly set out the period but we are of the opinion that the case put up by the petitioners that Dilip Debbarma, husband of the petitioner No.1 could not join duty because of mental illness may not be false.

4. No further inquiry can be held in the matter now. Dilip Debbarma was dismissed from service by treating him to be a deserter. In view of the medical report now received, it cannot be said that he is a deserter. It is, however, obvious that he cannot work any longer and he may not have been in a position to work for many years. We also feel that the family members of the Dilip Debbarma may have not been vigilant enough to prosecute the matter. However, we cannot lose sight of the fact that this writ petition was filed as far back as 2008 and the petitioners are not to blame for the delay of 7 years which has been taken by this Court to hear their matter.

5. The husband of the petitioner No.1 joined service on 10.01.1990 and it is alleged that he absented himself after 18.01.2004. He had put in more than 14 years of service. This service cannot be washed away. We, therefore, feel that the interest of justice will be met in case it is directed that the husband of the petitioner No.1 shall be deemed to have retired from service w.e.f. 18.01.2004 and he shall be given all retiral benefits including gratuity and pension as admissible under law w.e.f. 18.01.2004.

6. The respondent Nos. 2 & 3 are directed to ensure that the entire monetary dues are paid to the petitioner No.1 latest by 31.08.2015 failing which the B.S.F. shall be liable to pay interest @ 12% per annum from the date when the amount fell due till payment is made. Obviously, the B.S.F. will be entitled to deduct/adjust the amount as already paid. The petitioner-wife is at liberty to initiate appropriate proceedings in accordance with law if she wants that the money should be paid to her.

7. The B.S.F. may deposit the amount in the High Court because according to the petitioner No.1, her husband is unable to look after his interest.

8. The writ petition accordingly stands disposed of.

JUDGE

CHIEF JUSTICE