

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P(C) NO.160 OF 2015

1. Sri Pintu Laskar,
son of late Nimai Laskar

2. Smt. Lovely Laskar,
daughter of late Nimai Laskar,
wife of Sri Animesh Debnath

- both are residents of village Matabari,
Udaipur, P.O. & P.S. R.K. Pur, Sub-Division : Udaipur,
Dist: Gomati Tripura

..... Petitioners

- Vs -

1.The State of Tripura,
represented by the Chief Secretary in the Department of Home,
Govt. of Tripura, Agartala, having his office at New Secretariat
Complex, Gurkhabasti, P.O. Kunjaban, P.S. East Agartala,
Sub- Division: Sadar, District: West Tripura, PIN: 799006

**2.The Secretary to the Department of
General Administration (P & T),**
Government of Tripura, having his office at New Secretariat
Complex, Gurkhabasti, P.O. Kunjaban, P.S. East Agartala, Sub-
Division: Sadar, District: West Tripura, PIN:799006

3.The Director General of Police, Govt. of Tripura,
having his office at Police Head Quarters,
Near Fire Brigade, Agartala, P.O. HPO Agartala, P.S. West Agartala,
Sub-Division: Sadar, District: West Tripura, PIN: 799001

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners : Mr. A. Paul, Advocate

For the respondents : Mr. Samarjit Bhattacharji, Advocate

Date of hearing : 16.11.2015

Date of judgment & order : 23.11.2015

Whether fit for reporting :	Yes	No
	✓	

JUDGMENT & ORDER

By means of this writ petition, the petitioners have challenged the action of the respondents denying job under die-in-harness scheme for death of their father, namely Nimai Laskar who died in harness while serving as a Constable under the Tripura Police.

2. The petitioner No.1, namely Pintu Laskar approached first for such compassionate appointment. But his prayer for compassionate appointment could not be acceded to for the reason that he was lacking in educational qualification for any Government employment as he was merely class-V passed. Had the petitioner No.1 been serving as the Home Guard then he would have been appointed as the Sweeping and Cleaning Assistant (Group-D), but no such relaxation is available for the other persons. Hence, by the communication dated 09.11.2011 addressed to the Director General of Police, Tripura Agartala, the Deputy Secretary to the Govt. of Tripura and Home Department has regretted the compassionate appointment to the petitioner No.1. Thereafter, the petitioner No.2, namely Smti. Lovely Sarkar applied for the compassionate appointment. It is not in dispute, Smti. Lovely Sarkar is married and she is not estranged. However, her claim is that she has been living with the family of the deceased and for earning living she has been

giving tuitions to the students of the locality. However, by the communication dated 22.04.2013, the Deputy Secretary to the Govt. of Tripura, Home Department has informed the Director General of Police, Tripura that the petitioner No.2 is not eligible to get the benefit under the die-in-harness scheme. The petitioners collected information under the Right to Information Act, 2005. From one note, the following has been found about the petitioner No.2.

“It is mentioned here that Smti. Lovely Laskar was married on 02.12.2010 to Shri Animesh Debnath, resident of M.B. Tilla, Agartala. Smti. Laskar maintains a very good relation with her husband though she resided with her brothers at Matabari, Udaipur for the purpose of tuition as per SDM Sadar report (vide page- 118 Flag-B).

So as per definition of “family” for the purpose of benefit under die-in-harness Scheme as issued by GA (P & T) Deptt. Vide memo No. F. 1(1)-GA (P&T) 92(L) dt. 24.09.2011 (vide page-110), it is not clear whether Smti. Lovely Laskar is eligible for Govt job as she is a married women and after marriage she resides with her brothers.”

3. The said note was sent, as it transpires, to the Home Department and the Home Department declined to give any benefit to the petitioner No.2 by the communication dated 24.04.2013 (part of Annexure P-3 to the writ petition). The report as submitted by the SDM, Udaipur, as referred in the said note are available at Annexure R-6 to the supplementary affidavit filed by the respondents on 13.10.2015 in terms of the order of this court dated 18.04.2015. The report clearly states that the family left by the deceased employee does not have any source of income. The report has observed also as under :

“I would like to inform you that the matter has been enquired into. On enquiry it is revealed that, the family condition of Smt. Lovely Laskar, D/O, deceased Nimai Laskar Ex-Const. Vill. & P.O. Matabari, Dist. Gomati District, who expired on 17.03.2010, and other related information in regard to the family are as follows:

PART-“A”

1.	Name of the deceased employee	NIMAI LASKAR
2.	Name of applicant of Govt. job	SMT. LOVELY LASKAR
3.	Relation of applicant with deceased	DAUGHTER
4.	Date of birth and age as on the date of death	27 YEARS
5.	Educational Qualification of the candidate	Madhyamik pass
6.	Nationality	Indian
7.	Date of death of deceased employee	17.03.2010
8.	Total No. of family members	5(five) Nos.
9.	Govt. Service holder family member, if any with name, designation, salary etc.	Nil
10.	Any member of family in Public/Private service/Self-employed (with details)	Sri Sukanta Laskar, Son Cabinet owner
11.	Landed property owned by the family with details	1.48 acre mouja Matabari K.No.442
12.	Total monthly family income from all sources	Rs.7000/- (Rupees Seven thousand)only from Pension and R s.3000/- (Rupees three thousand) only total Rs.10000/- only.
13.	If applicant if married, whether he is staying with the family and evidence thereof	Married.

PART-“B”

Name of family members	Marital status	Age	Relationship with deceased	Occupation	Income (in Rs.) monthly	Source of Income
Smt. Anjali Laskar	Widow	55	Wife	House wife	-	Rs.7000/- (Rupees Seven thousand) only from Pension and Rs.3000/- (Rupees three thousand)only total Rs.10000/- only.
Sri Tapas Laskar	Married	37	Son	Un-employed	-	
Sri Pintu Laskar	Married	32	Son	Un-employed	-	
Sri Sukanta Laskar	Married	28	Son	Cabinet owner	-	
Smt. Lovely Laskar	Married	26	Daughter	Un-employed	-	

ii. Any other source of income (details) : Nil.”

4. The SDM has recommended for Government job under the die-in-harness Scheme in favour of the petitioner No.2. From the letter dated 27.01.2012, Annexure R-7 to the said supplementary

affidavit filed by the respondents, it appears that the Superintendent of Police, Gomati District has asked the SDM, Udaipur to clarify by an additional report whether the petitioner No.2 is living together or not with the family of the deceased. By an additional report dated 01.08.2012, the SDM, Udaipur, Gomati District has clarified that the petitioner No.2 resides with her brothers at Matabari for purpose of tuition. Having the said report dated 01.08.2012, the same was forwarded to the office of the Director General of Police, Tripura. From the communication dated 22.04.2013 (part of Annexure P-3 to the writ petition), it transpires that, that aspect of the matter was not appropriately dealt with. The memorandum dated 24.09.2011, Annexure P-7 to the writ petition, has defined 'family' in the para-(ii) as under:

"Now, the definition of the term "family" for the purpose of providing employment/financial assistance both in die-in-harness and extremist/ethnic violence schemes has been reviewed by the Government and it is proposed to amend the definition of "family" as in the following manner:

- (i) his wife or her husband, as the case may be;**
- (ii) legitimate children excluding a married son or married daughter or daughter-in-law, if he/she lives separately from other members of the family;**
- (iii) step Children,**
- (iv) adopted Children**
- (v) dependent daughter-in-law;**
- (vi) dependent parents;**
- (vii) dependent unmarried brother(s) and unmarried sister(s) and**
- (viii) dependent widow daughter(s)."**

[Emphasis supplied]

5. It has been further clarified in the said memorandum dated 24.09.2011 that the definition of 'family' would be applicable for purpose of providing employment/financial assistance in the die-in-harness and extremists/ethnic violence scheme with immediate effect. The said 'definition' has been given effect from 24.09.2011.

6. According to Mr. A. Paul, learned counsel appearing for the petitioner, the amended definition of the 'family' has to be applied in the case in hand and the petitioner No.2 is well-covered by the definition at the para-(ii) of the said memorandum dated 24.09.2011.

7. From the other side, Mr. Samarjit Bhattacharjee, learned counsel appearing for the respondents has candidly submitted that whether the married daughter is or is not living separately from the other members of the family is a matter of fact. From the clarificatory report of the SDM dated 01.08.2012, Annexure R-8 to the supplementary affidavit, that fact can be gathered.

8. Having regard to the records as produced and the averments made in the writ petition, the counter-affidavit and the supplementary affidavit filed by the respondents, it appears that if a married daughter does not live separately from the family of the deceased employee, the benefit of the die-in-harness Scheme can be provided to her. There is no dispute that the petitioner No.1 is not

eligible for getting any benefit under die-in-harness Scheme and as such the decision as taken by the Home Department does not call for any interference. There is no other embargo except the issue of her residence in considering the compassionate appointment of the petitioner No.2 in a post commensurate to her over qualification i.e. Madhyamik passed as she is within the maximum age limit prescribed for the government employment. The impugned decision of the Home Department reflects the communication dated 22.04.2013 (part of Annexure P-3 to the writ petition) requires to be interfered with inasmuch as the object of the die-in-harness Scheme is to enable the family of the deceased employee tide over the financial stringency faced by the family for sudden death of the only earning member. It has been settled that when it is a question of interpreting a provision of beneficial legislation or scheme, the construction shall be liberal to achieve the object that has been sought to be achieved by way of that scheme. That apart, there is no dispute that in the family of the deceased employee there is no other earning member. There is no evidence that the petitioner No.2 has been living with her husband even though she is not estranged, but from the inquiry report of the Sub-Divisional Magistrate, Udaipur, Gomati it has been established that the petitioner No.2 has been residing in the house of the deceased employee for purpose of giving tuition. Even the Sub-Divisional Magistrate, Udaipur, Gomati, Tripura by his report dated 28.03.2012 has recommended the Government job under the die-in-harness Scheme in favour of the petitioner No.2. Whether such

residence would satisfy the requirement that the daughter is residing with the family members of the deceased employee or would it suffice the requirement of the definition as amended by 24.09.2011 or since she is married to a person living in a different place, whether she would be treated as if she is living separately from the members of the deceased employee's family?

In response thereto this court is inclined to hold on taking a liberal approach that for purpose of granting the benefit of the die-in-harness Scheme, such residence of the petitioner No.2 would entitle her to get the benefit under the die-in-harness Scheme in view of the definition of 'family' as provided by the memorandum dated 24.09.2011. Hence, the respondents are directed to give the petitioner No.2 an employment under the die-in-harness Scheme to a post commensurate to her qualification within a period of six months from today after completing the required formalities.

9. Having held so, the writ petition stands allowed to the extent as indicated above.

There shall be no order as to costs.

A copy of this order be furnished to Mr. Bhattacharji, learned counsel appearing for the respondents for transmission.

JUDGE

Moumita