

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.492 OF 2011

Shri Sanjit Debbarma,
S/O Late Rati Ranjan Debbarma of
Village & P.O. Duski Bazar,
P.S. Teliamura, District-West Tripura,
Pin-799203.

..... *Petitioner*

- *Vs* -

1. The State of Tripura,
Represented by the Secretary to the
Government of Tripura,
Revenue Department,
New Secretariat Building,
Capital Complex,
P.O. Kunjaban, P.S. East Agartala,
West Tripura.

2. District Magistrate & Collector,
West Tripura,
Agartala Old Secretariat Building,
P.O. Agartala, P.S. West Agartala,
West Tripura.

3. The Sub-Divisional Magistrate,
Khowai, P.O. & P.S. Khowai,
District-West Tripura.

..... *Respondents*

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner : Mr. B. Dutta, Advocate

For the respondents : Mr. S. Chakraborty, Addl. G.A.

Date of hearing and delivery
of Judgment & Order : **14.09.2015**

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER(ORAL)

Heard learned counsel, Mr. B. Dutta for the petitioner and learned Addl. G.A., Mr. S. Chakraborty for the State respondents.

2. Father of the petitioner, namely Rati Ranjan Debbarma died *in-harness* on 18.12.2002 while was working as a Peon under respondent Nos.2 and 3. He left behind his wife Biswalaxmi Debbarma, three sons namely Biman Debbarma, Binode Debbarma and Sanjit Debbarma(the petitioner) and three daughters namely Pramila Debbarma, Sarmila Debbarma and Ranjan Mala Debbarma. A survivorship certificate is annexed with the writ petition. The petitioner on 17.06.2004 made an application in prescribed format for giving him a job under the *die-in-harness* scheme. Mother of the petitioner Biswalaxmi Debbarma also made an application on 08.07.2004 to provide a job to the petitioner under the scheme.

3. It is not disputed that the petitioner was not eligible for a job under the *die-in-harness* scheme. The respondents rejected the prayer of the petitioner by issuing a letter dated 04.08.2004(*Annexure-R1* to the counter affidavit).

4. It is submitted by Mr. Dutta, learned counsel of the petitioner that Biman Debbarma, the elder brother of the petitioner has been living separately from the family of the deceased government employee and he is working as a Store-Guard (a class

IV employee) and he is married. He has been living separately from the family of the deceased government employee. Mr. Dutta, learned counsel has submitted that as per the Government of Tripura Memo. vide No.F.1(1)-GA(P&T)/92(L) dated 24.06.2002, a married son or daughter-in-law, if they live separately shall not be treated as member of the family. So, Biman Debbarma cannot be treated as member of the deceased government employee. It is also submitted by learned counsel, Mr. Dutta that the petitioner is entitled to get a government job as a class IV employee for the death of his father.

5. Learned Addl. G.A., Mr. Chakraborty has submitted that the writ petition abnormally suffers from delay and laches since it is filed after seven years of the rejection of petition for the job. A job under the *die-in-harness* scheme is intended to provide immediate relief to the family members of the deceased government employee so that they did not suffer starvation. Since the writ petition has been filed after about seven years of the rejection of the petition it is to be presumed that they are not in hardship.

6. Learned counsel, Mr. Dutta producing a copy of an order dated 14.09.2009 passed in WP(C) No.407 of 2008 has submitted that in that case also writ petition was filed after about seven years but the Court was gracious enough to direct the petitioner to make an application to the competent authority for

consideration of the case and the Government made proper consideration in that case. A copy of that order is placed on record.

7. Father of the petitioner Rati Ranjan Debbarma died on 18.12.2002 while working as a Peon under the respondent Nos.2 and 3. Application for job under the scheme was supposed to be filed within one year from the date of death. But it has to be seen that whether the petitioners were informed that they had a right to approach for a job under *die-in-harness* scheme. There is nothing to show that the petitioners were informed about the scheme. So the petitioner made application on 17.06.2004 and his mother made application on 08.07.2004 for job. The Addl. District Magistrate by issuing letter dated 04.08.2004 informed the mother of the petitioner that her prayer has been regretted. A copy of that letter is annexed as *Annexure-R1* to the counter affidavit which reads as follows:

"GOVERNMENT OF TRIPURA
OFFICE OF THE DISTRICT MAGISTRATE & COLLECTOR
WEST TRIPURA DISTRICT
(ESTABLISHMENT SECTION)

No.F.1(33)/DM/W/ESTT/Vol-I/01/3642 dated 04/8/04

*To
Smti Biswalaxmi Debbarma,
W/O, Late Rati Ranjan Debbarma,
Vill-Uttar Pulinpur,
P.O. Duski Bazar,
P.S. Teliamura,
West Tripura.*

*Subject: Prayer for the post of Class-IV employee in
'Die-in-harness' ground.*

Ref: Your petition dated Nil.

Sir,

With reference to the above, I am directed to inform you that your prayer for appointment under 'Die-in-harness' scheme and financial assistance has been re-examined by the authority and regretted.

Yours faithfully,

*Addl. District Magistrate & Collector
West Tripura."*

8. The above letter clearly reveals that no reason was assigned why the petitioner's claim was rejected. However, it is a fact that the petitioner did not approach this Court immediately after the rejection of their prayer for employment under the scheme. They were sleeping over their right. A person who is not diligent in respect of his right is not entitled to get any relief. The writ petition, no doubt suffers from delay and laches. However, I am of the opinion that *die-in-harness* is a benevolent scheme formulated by the State Government to provide certain relief to the family of a deceased government servant. Here, in this case the petitioner was entitled to get a job but the petitioner did not approach the government in time and the writ petition was also filed after a long delay. Since it is a benevolent scheme of the Government to help the family of a deceased employee who has no other source of income, I think in the present case where the deceased was a class IV employee and the petitioner also made a prayer for appointment as a class IV employee, a humane approach may be given to the case of the petitioner. Therefore, it is ordered

that the petitioner may make a fresh application to the respondents and in that case the respondents may give a fresh look to the prayer and if they find it proper may afford appropriate relief to the petitioner under the scheme.

9. With the above observation the writ petition stands disposed of. The writ petitioner may make approach within fifteen days from today and the respondents should dispose the prayer within two months from the date of making the application.

JUDGE