

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.490 OF 2014

Shri Koushik Das,
S/o Late Rebati Mohan Das
of Village Netaji Palli, PO Belonia, PS
Belonia, Dist. South Tripura.

..... Petitioner

- Vs -

1. The State of Tripura,
Represented by the Secretary,
Welfare for Scheduled Castes Department,
Government of Tripura,
New Capital Complex, P.O. Kunjaban,
P.S. East Agartala,
District West Tripura, 799006.

2. The Secretary to the Government of Tripura,
Finance Department, New Capital Complex
PO: Kunjaban PS: New Capital Complex,
District: West Tripura.

**3. The Director for Welfare of
Scheduled Castes and OBCs,**
Pandit Nehru Complex, Gorkhabasti, P.O Kunjaban,
P.S West Agartala, District: West Tripura.

4. Sub-Divisional Magistrate
Belonia, PO and PS Belonia,
District:- South Tripura.

5. Head of office and DDO,
Deputy Director for Welfare for
Scheduled Castes Department,
Pandit Nehru Complex,
PO: Kunjaban PS: West Agartala,
Dist. West Tripura.

.....Respondents

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

For the petitioner

: Mr. A.K. Bhowmik, Sr. Advocate
Mr. Raju Datta,
Ms. M. Choudhury,
Ms. A. Banik, Advocate

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

Date of hearing & delivery
of Judgment & order : 13.07.2015.

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER

The case is taken up for disposal at the admission stage itself.

2. The State-respondents failed to file any counter affidavit even after repeated adjournments. By the last order time was allowed as last chance to file counter affidavit, subject to payment of a cost of Rs.2000/-. Neither the cost paid nor any counter affidavit filed on behalf of the State-respondents. It was clearly stipulated in the last order that if the respondents fails to file counter affidavit by today, the matter will be decided on the basis of the pleadings of the writ petition itself. In view of that order, the case is taken up for final disposal.

3. Heard Learned senior counsel, Mr. A.K Bhowmik for the petitioner and learned counsel, Mr. N. Majumder for the State-respondents.

4. This writ petition is filed under Article 226 of the Constitution of India praying for direction to the State-respondents to provide the petitioner a suitable job for the death of his father, Rebati Mohan Das, who died-in-harness on 18.10.2012, while was

working as a Peon under the Directorate of Welfare of Scheduled Castes and OBCs, Government of Tripura. It is an undisputed fact that Rebati Mohan Das died-in-harness on 18.10.2012 and at that time he was working as a Peon under the State-respondents. On 24.12.2012 an application was made in prescribed format praying for providing a suitable job to the petitioner and the other family members signed the prescribed application giving no objection to the employment of the petitioner. A copy of the petition has been Annexed as Annexure-3. The petitioner produced a survivorship certificate issued by SDM, Belonia and it shows that Rebati Mohan Das at the time of his death left behind his wife Sandhya Majumder(Das), elder son, Rajesh Das, younger son, Koushik Das, i.e. the petitioner and Smt. Jogamaya Das, the mother. The copy of the survival certificate is Annexed as Annexure-2.

The State-respondents did not provide the job to the petitioner and regretted the proposal by signing a letter to the SDM, Belonia, and a copy was sent to the petitioner. A copy of that letter is Annexed as Annexure-5, wherein it is stated that the Finance Department regretted its in-ability to concur the proposal for providing a job to Koushik Das under the die-in-harness scheme due to the fact that there was a Government employee at the time of death of the deceased.

4. Learned senior counsel, Mr. Bhowmik submitted that the wife of the eldest son Rajesh Das is a Government employee and on that ground the State-respondents refused to provide the job to the petitioner. Referring to Memo No. F.19(2)GA/77(L), dated 8th January

1992, learned senior counsel, Mr. Bhowmik submits that a married daughter-in-law does not come under the preview of a member of the family as defined in that Memorandum.

5. Learned counsel, Mr. N. Majumder appearing for the State-respondents submits that by a subsequent Memo No. 1(1)-GA(P&T)/92(L), dated 24th September 2011, the definition of family has been amended and so, the petitioner is not entitled to get a job for the reason that his elder brother's wife is a Government employee.

6. In the Memo dated 08.01.1992 'family' has been defined thus:-

"'Family' means a Government servant - Wife and Husband, as the case may be and legitimate children.

Note:- (a) The term 'Children' includes sons and unmarried Daughters

(b) Married sons even if they live separately, should be treated as member of the family."

7. In the subsequent Memo dated 24.09.2011 in paragraph 2 'family' has been defined thus:-

" 2. 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)."

8. The survivorship certificate which was issued on 28.11.2012 shows that only mother, wife and two sons were left by the deceased. There is no mention in the survivorship certificate about the daughter-in-law. Family ration card has not been produced to see whether elder son's daughter was a member of family or not. However, as per the definition of 'family' contained in the latest Memo dated 24.09.2011, a daughter-in-law is not ordinarily included in the definition of family. Therefore, refusal of job to the petitioner on the ground that one of the son's wife is a Government employee does not hold good. Since as per Memorandum dated 24th September 2011 a daughter-in-law is excluded from the member of a family of a deceased Government employee, the rejection of job of the petitioner on that ground was altogether wrong.

9. Therefore, I am of the considered opinion that the respondents illegally and wrongly refused employment to the petitioner under the die-in-harness scheme, which is a benevolent scheme to provide job to a member of the family of the deceased

employee and hence, I think it is a fit case where the respondents should be directed to provide job under the scheme to the petitioner.

10. Accordingly, the writ petition is allowed. The respondents are directed to provide a suitable job to the writ petitioner under the die-in-harness scheme for the death of his father within 60(sixty) days from today.

11. The writ petition accordingly, stands disposed of.

Parties to bear their own cost.

JUDGE

Sohanjit