

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.1134/2016

Sri Biswajit Debbarma, S/O. Late Ranjit Debbarma, Resident of Abhoynagar, P.O. Abhoynagar, P.S. East Agartala, District-West Tripura.

----Petitioner(s)

Versus

1. State of Tripura, represented by Secretary to the Government of Tripura in the Health and Family Welfare Department, Having its office at New Capital Complex, Lichubagan, P.O. Kunjaban, Agartala, West Tripura.

2. Director, Health and Family Welfare Department, Government of Tripura, Gurkhabasti, P.O. Kunjaban, District-West Tripura.

----Respondent(s)

For Petitioner(s) : Ms. R. Majumder, Advocate.

For Respondent(s) : Mr. M. Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. AJAY RASTOGI

Order

27/04/2018

The petitioner is the married son of the deceased who happens to be his mother died while in service on 16.10.2014. It is informed to this court that his father died prior thereto. Thus, the family was dependent upon the mother being under employment and a member of Group-D.

2. The petitioner claiming himself to be one of the dependent family member of the deceased Government employee submitted application on 24.02.2015 seeking compassionate appointment under die-in-harness scheme, Government of Tripura. His application came to be rejected on the sole ground that on inquiry, it revealed that the petitioner was holding a separate family ration card and could not be considered to be a dependent

on the deceased Government employee having a separate unit vide order dt. 22.02.2016 (Annexure-P/7).

3. After notices being served, counter affidavit has been filed by the respondents and the inquiry report conducted by SDM, Sadar addressed to the Director of Health Services, Government of Tripura dt. 01.8.2015 has been placed on record as Annexure-R/1. The sole reason assigned for non-suiting the petitioner for seeking the compassionate appointment is that the name of jobseeker Biswajit Debbarma is not found in the family ration card No.403 of the deceased Government employee Kalyani Debbarma having another family ration card no.31. Later on, in rejoinder the petitioner has placed a copy of a ration card no.403 issued on 29.12.2004 (Annexure-P/10), further counter has been filed by the State Government disputing the correctness of the document (Annexure-P/10) placed by the petitioner on record.

4. Counsel for the petitioner submits that the object of the scheme is to extend benefits either by an appointment in Government service on compassionate grounds to one of the legitimate dependent member of the family of the deceased Government servant for the reason that they have lost the breadwinner and the left out family members have no source of livelihood/financial assistance and the intention is to relieve the family of the Government servant from financial destitution and to help it get over the financial hardship providing employment to one of the eligible dependent of the deceased Government servant.

5. Counsel for the petitioner further submits that taking note of the object of the scheme holding the petitioner to be a separate unit and not a member of the family of the deceased Government employee merely on the basis of the ration card as alleged although that has been disputed but still even if taking it at the face value ration card is being utilized for availing various benefits under the Government schemes and it can be a piece of evidence but to hold the petitioner not being dependent on the deceased Government servant on the basis of a ration card alone, no adverse inference can be drawn of his self dependence and in support of his submission, counsel relied on two judgments of the Coordinate Bench of this court being WP(C) No.62/2014 and WP(C) No.161/2015 and taking assistance counsel submits that rejection of his candidature for compassionate appointment under the given circumstances is wholly arbitrary and violative of Article 14 of the Constitution.

6. Counsel for the respondents has supported the order impugned dt. 22.02.2016 and submitted that there is no error in the decision making process adopted by the respondents and after holding inquiry from the senior officer of the Government based on his report, decision has been taken that he is married and holding a separate ration card, cannot be considered to be a dependent member of the deceased family as referred to under para-2 of the Notification dt. 26.12.2015 and in the given circumstances, his candidature has been rightly rejected under order dt. 22.02.2016.

7. I have heard counsel for the parties and with their assistance examined the materials on record.

8. Looking at the scheme under Notification dt. 26.12.2015, the object has been defined in the opening paragraph of the notification and it clearly envisages that it is a beneficial scheme although there is no right to seek compassionate appointment but still it has to be liberally construed in providing employment to one of the dependent member of the deceased family as they have lost their breadwinner, who has served the institution for a sufficient time and rendered his valuable services and the government take a social responsibility in protecting and securing the interest of the left out dependent members of the family of the deceased government employee who died while in service.

9. If we look into para-2 of the scheme, that indicates the categories of dependent family members (i)-(ix), it includes legitimate children and dependent unmarried brother/unmarried sister/widowed daughter including legitimate step children and adopted children and also the dependent daughter-in-law including parents. A well exhaustive definition has been defined by the State Government in extending the scheme for providing solace to the family covered by para-2 of the scheme, 2015 with a further proviso that if a married son or daughter-in-law or widowed daughter, if he/she lives separately from other members of the family on or before the death of the Government employee shall not be considered as family member and at the same time shall not be treated as earning member of the family of the government employee.

10. A clarification has been made under proviso appended to para-2 of the scheme, 2015 is to widen the scope of dependant members of the deceased Government employee and a married son or daughter or daughter-in-law or widowed daughter if they are living separately having their independent source of income will not be considered to be a part of the dependent family members of the deceased employee. In consequence thereof, if a married son having no source of income and living with the parents would be considered to be a dependent family member of the Government employee in terms of para-2 of the scheme, 2015.

11. It is not the case of the respondents that he has any independent source of income and he has not been treated to be a dependent member of the family of the deceased Government employee because of his separate ration card. As already observed, although there is a documentary evidence placed by the petitioner on record to substantiate that he is the member of the family in terms of the ration card no.403 on record but that apart, ration card issued by the authority may be used for manifold reasons required for the family who is living together and dependent member of the Government employee but to avail various beneficial schemes of the Government/Central Government.

12. This court further makes it clear that a ration card as alleged may be a piece of evidence regarding the independency of married son/ daughter/daughter-in-law/widowed daughter about their self

dependence, financial status, losing dependency in the family of the Government employee could not be established taking ration card as a solitary document to non-suit the case of the petitioner for seeking compassionate appointment under the order impugned.

13. To add further if we allow the ration card in itself to be a sole document to deny a rightful legitimate claim of the employee who is otherwise dependent family member of the deceased Government employee under para-2 of the Notification, 2015, it will be unjust to him and to non-suit from being considered for compassionate appointment and that can never be the object of the social scheme introduced by the government to own its responsibility to protect the members of the dependent family of the deceased Government employee in providing social security.

14. Consequently, the writ petition is allowed. The order dt. 22.02.2016 is hereby quashed and set aside. The respondents are directed to consider the suitability of the petitioner for seeking compassionate appointment under the Notification dt. 26.12.2015 based on his qualification on the post in Group-C or Group-D as the case may be. The respondents are directed to comply the order within 2(two) months. No costs.

CHIEF JUSTICE

Certificate:- All corrections made in the judgment/order have been incorporated in the judgment/order.

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