

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.172/2020

Smt. Rumki Saha,
W/o Late Lakhu Dey, resident of Vill. & P.O : Durgapur,
P.S : Sonamura, Sonamura Sub-Divn : Sephijala Tripura.

..... *Petitioner(s)*.

Vs.

1. The State of Tripura,
to be represented by the Commissioner/Secretary,
Department of School Education, Government of Tripura,
New Secretariat Complex, Kunjaban,
Agartala, West Tripura, Pin – 799 006.
2. The Secretary,
Finance Department, Government of Tripura,
New Secretariat Complex, Kunjaban,
Agartala, West Tripura, Pin – 799 006.
3. The Secretary,
Forest Department, Government of Tripura,
New Secretariat Complex, Kunjaban,
Agartala, West Tripura, Pin – 799 006.
4. The Principal Chief Conservator of Forests,
Aranya Bhavan, Gorkhabasti, Agartala,
Kunjaban, West Tripura, Pin – 799 006.

..... *Respondent(s)*.

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HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

For Petitioner(s) : Mr. Samarjit Bhattacharjee, Advocate.

For Respondent(s) : Mr. Dipankar Sharma, Addl. G. A.

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21/10/2020

Petitioner is the widow of deceased Government servant. She seeks appointment on compassionate ground under Die-in-harness Scheme of the State Government which the respondents have refused to grant. Hence this petition.

[2] One Lakhu Dey, husband of the petitioner, was working as a Forester. He died while in service on 12th December, 2017. The deceased left behind his widow i.e. the present petitioner, minor daughter and aged mother as his dependants. The petitioner, as the widow of the deceased Government servant, made an application dated 7th March, 2018 to the respondents for appointment on compassionate grounds. Under a letter dated 29th October 2018, the Deputy Conservator of Forests asked the petitioner to submit an authentic copy of the family ration card of the deceased Government servant in which the name of the petitioner should be reflected. In response to such letter, the petitioner replied on 2nd November, 2018 conveying that her husband was in a

transferable post and during his service, he was posted at different places and therefore, his name could not be included in any particular ration card. However, she produced a ration card issued in her favour and in favour of her minor daughter where the name of the deceased Government servant Lakhu Dey was mentioned as the husband of the petitioner. Along with the said letter, the petitioner also annexed copies of her marriage certificate and survival certificate issued by the competent authorities. Despite this, since the respondents did not appoint the petitioner on compassionate basis she has filed this petition.

[3] Appearing for the petitioner, learned counsel, Mr. Samarjit Bhattacharjee, submitted that the deceased Government servant was the sole earning member of the family. He had left behind his widow, minor daughter and aged mother as his dependants. The mother-in-law of the petitioner has also issued '*No Objection*' to the petitioner being given compassionate appointment. In the service record of the deceased employee, name of the petitioner was shown as a nominee. She is also receiving family pension from the Government. She has produced the marriage certificate and survival certificate before the authorities. The scheme for appointment on compassionate grounds prevailing at the relevant time nowhere provided that

production of the Ration Card showing the names of the deceased employee and the job seeker is a pre-requisite for appointment under the scheme. In any case, any such document can only be in the nature of a guiding evidence and cannot be a conclusive proof. In the present case, there is overwhelming evidence on record suggesting that the petitioner was a dependant member of the family of the deceased Government servant. In absence of any dispute *inter se* between the family members, compassionate appointment cannot be denied to the petitioner only on the ground that the Ration Card does not contain the names of the husband and wife together.

[4] On the other hand, learned Additional Government Advocate, Mr. Dipankar Sharma, opposed the petition submitting that the name of the petitioner's husband was included in a separate Ration Card. Die-in-harness Scheme of 2019 specifically makes a provision that to show dependency Ration Card would be an important document. Even though the previous scheme may not be containing any such specific provision, nevertheless, it was always considered a relevant document.

[5] The husband of the petitioner died on 12th December, 2017 and, therefore, the Die-in-harness Scheme framed by the Government under notification dated 2nd March, 2019 would not be applicable. As per settled law,

the scheme for appointment on compassionate ground could be one which was prevailing at the time of the death of the Government servant. In this context, one may peruse the Die-in-harness Scheme framed by the Government under a notification dated 26th December, 2015. The object of the scheme was to extend the benefit either of an appointment in Government service on compassionate grounds or admissible financial assistance when there is no eligible dependant member of the family of the deceased Government servant who dies while in service. Sub-Clause (ii) of Clause 1 of the Scheme provided that the benefits of the scheme shall not be given if there is any earning member in the family of the deceased Government servant. Clause 2 of the scheme contained a definition of dependant family member and provided that the same would cover the wife or the husband as the case may be, legitimate children, legitimate step children, adopted children, dependant daughter-in-law, dependant parents etc. This scheme did not contain any provision requiring the applicant of compassionate appointment to produce the Ration Card showing his or her name along with that of the deceased Government servant. This scheme only required that the applicant should be a dependant family member of the deceased and that the family should not have any other earning member.

[6] Under the circumstances, it was not permissible for the respondents to insist on such requirement referring to the scheme dated 2nd March, 2019. Even this scheme, in my opinion, does not make any such rigid requirement as is sought to be enforced by the respondents. This scheme contained a definition Clause 2, Clause 2.4 therein pertains to the term “Family Members” as to mean the details of members listed in Record of Ordinary Residence or Ration Cards of the affected Government servant as on the date of occurrence. It further provides that in case of any confusion as to whether anybody is part of the affected family or not, the report of the concerned Sub-Divisional Magistrate(SDM) based on field verification as well as verification of relevant documents shall be treated as final. In such cases, information as mentioned in the Service Book about family members and LTC claim can be taken into consideration.

[7] A few things immediately emerge from the said definition of term “Family members”. Reference to the Record of Ordinary Residence and Ration Cards is by way of a guidance and cannot be the sole basis of deciding the question whether a person is or is not a member of the family of the deceased Government servant. This is clear from the sub-paragraph of Clause 2.4 which as noted, provides that in case of confusion, report of the SDM based on field

verification and verification of the documents shall be treated as final. The service record would also be relevant for such purpose. It is possible that in some cases, a Ration Card may not have been updated for variety of reasons. Such Ration Card cannot be made the sole basis for deciding the question. For example, if soon after the marriage the Government servant suddenly expires, it is possible that the family did not have sufficient time to include the name of the spouse in the Ration Card. Can in such a case be said that the spouse of the deceased Government servant shall not be treated as a member of the family? The answer has to be in the negative. There may be many other instances where the non-inclusion of the name of the applicant of compassionate appointment in the Ration Card containing the name of the deceased Government servant may be ignored in view of independent and conclusive evidence. The requirement of a Ration Card containing the names both of the deceased Government servant and job seeker, therefore, in any case, cannot be implemented with such rigidity. It, of course, provides a safe guide and a strong *prima facie* indication, nevertheless, cannot be treated as a conclusive proof.

[8] Reverting to the facts of the present case, as noted the scheme for compassionate appointment of the year 2015 did not contain any such

requirement of production of the Ration Card as is being insisted by the respondents. Secondly, the petitioner has produced her marriage certificate, the survival certificate as well as no objection from the mother-in-law to her getting a Government appointment. The service record also indicated the petitioner as the wife of the Government servant. On such basis, she is also receiving family pension. There is no doubt or dispute about the petitioner being the dependant member of the family of the Government servant and a rightful claimant of appointment on compassionate grounds.

[9] Under the circumstances, the respondents shall process the application of the petitioner further and offer her appointment on compassionate grounds under the relevant scheme subject to fulfilling all other conditions. This process shall be completed within a period of 3(three) months from today.

[10] Petition is allowed and disposed of accordingly. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI, CJ)