
(2000) 09 GAU CK 0035
In the Gauhati High Court
Case No : Writ Petition (C) No. 269 of 2000

Jaya Rani Ghosh

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 21-09-2000

Acts Referred:

Citation : (2000) 3 GLT 413

Hon'ble Judges : P.G. Agarwal, J

Bench : Single Bench

Advocate : Mr. P.C. Das, for the Appellant; Mr. U.B. Saha and Mr. D.C. Nath, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. P.C. Das, learned counsel for the petitioner and Mr. U.B. Saha, learned senior Govt. Advocate, assisted by Mr. D.C. Nath, learned counsel for the respondents.

2. The case of the petitioner is that her husband Himangshu Bhusan Ghosh died-in-harness while serving as Pharmacist in the Health Department, Government of Tripura on 4.6.1994 on 11.7.1995 and thereafter on 22.6.1998 applications were made before the respondent No. 3 for appointment on compassionate ground as per Government's guidelines and Memo No. F. 2 (48) -MS/ESTT-II/79/882(V-1) dated 20.9.1995 and memo No. F.2(48) MS/EST-II/79/9135 (V-1) 17.8.1998. The prayer of the petitioner was rejected vide impugned orders, Annexures - 5 and 6 on the ground that one of the daughters of the deceased, Smti Swapna Ghosh is already in Government service.

3. Under the Govt. Memo dated 13th August, 1996 (Annexure-8) employment may be provided to one member of the family provided there is no earning member in the family. The learned counsel for the petitioner submits that on the date of death, none of the family members of the deceased were in Govt. service and moreover, Smti Swapna Ghosh was appointed in Govt. service not under die-

in-harness scheme, but on the strength of her merit and as such another member of the deceased family is entitled to appointment under the above scheme. In the case of Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, the Apex Court has observed that the courts cannot order appointment on compassionate and instructions. Hardship of a candidate, held, does not entitle him to compassionate grounds dehors the provision of statutory regulations appointment dehors statutory provisions. As per the Office Memorandum and guidelines issued by the State of Tripura, appointment under compassionate ground is available to the members of bereaved family provided there is no other member of the family in employment. Admittedly, after the death of the father, Smti Swapna Ghosh was appointed in a Govt. job under the State of Tripura. The fact that Smti Swapna Ghosh was not appointed under die-in-harness scheme, is immaterial and not relevant for the purpose. This court also took a similar view in the matter in the case of Kabita Deb, petitioner v. State of Tripura and others, respondents (2000) 2 GLR 530. A Division Bench of this court also in the case of State of Manipur, appellant v. K.H. Jasobanta Singh, respondent 1999(3) GLT 590 held that the court cannot issue any direction contrary to the scheme. The decision in the case of Life Insurance Corporation (supra) was reiterated by the Apex Court in the case of State of H.P. and Another Vs. Jafli Devi (Smt.),

4. On perusal of the Memos and guidelines laid down by the State of Tripura, I find that the petitioner is not entitled to any relief in this case. The learned counsel for the petitioner further submits that Smti Swapna Ghosh has in the meantime got married in the year 1999 and now she is living with her husband. The scheme does provides appointment to the eligible daughter or son without making any distinction between the son and daughter. If after marriage, daughter leaves the family is there any scope for giving appointment under the above scheme the next in the line? If the above submission is to be accepted, it will be never ending business and in a democratic set up there is no scope for hereditary appointment to a public office. Appointment on compassionate ground is not a matter of light and it is provided so that the family can cope up with the immediate needs due to the sudden death of the bread earner.

5. The writ petition is accordingly dismissed.