
(1996) 07 GAU CK 0034
In the Gauhati High Court
Case No : C.R. No. 143 of 1996

Laxmi Rani Das

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 31-07-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 3 LLJ 1166

Hon'ble Judges : N.G. Das, J

Bench : Single Bench

Advocate : B. Das, for the Appellant; U.B. Saha, for the Respondent

Final Decision : Allowed

Judgement

N.G. Das, J.—By this application filed under Article 226 of the Constitution of India, the petitioner has sought for issuance of a direction in the nature of mandamus requiring the respondents to appoint her to a post commensurate with her qualifications.

2. I have heard Mr. B. Das, learned senior counsel appearing on behalf of the petitioner and Mr. U.B. Sana, learned Government advocate appearing on behalf of the respondents.

3. The petitioner's case, shortly put, is that her husband who was a Sub-Inspector of Police died on September 24, 1995 due to heart attack leaving herself and three minor children. The petitioner, therefore, submitted a number of representations to the respondents and also to the Chief Secretary, Government of Tripura for appointing her to a post commensurate with her qualifications. It is also stated that petitioner passed school final examination and as such by virtue of her academic qualifications she is entitled to get a post of L.D. Clerk or some post equivalent to L.D. Clerk. But even though a considerable period has already elapsed, the respondents have not responded positively. Hence, this Writ petition.

4. The respondents resisted the Writ petition by filing a counter affidavit wherein it has been stated, inter alia, that it is true that the Government has such a scheme but under that scheme, employment will be provided to one of the dependents of the deceased Government servant and such employment can be provided if no member of the family of the deceased Government employee is in employment in the State Government or the Central Government or Corporation or Undertakings or such other bodies of the State Government or the Central Government. The further contention of the answering respondents is that the benefit under the die-in-harness scheme can be extended subject to the availability of the vacancies of the appropriate category. It has been averred that there are about 289 such cases pending before the Government and the position of the petitioner is at serial No. 38 in Group-C post. It is further contended that while making any appointment under this scheme, the Government is also required to maintain roster or reservation. It has, therefore, been stated that in view of the aforesaid circumstances, this Writ petition is liable to be dismissed in limine.

5. A bare perusal of the Writ petition and the counter affidavit will make it clear that there is no dispute that petitioner's husband died while he was in service. It is also not disputed that petitioner is the wife of late Tapan Kanti Das who died on September 24, 1995. That die-in-harness scheme is in vogue in Tripura is also not disputed. But Mr.U.B. Sana, learned Government advocate contends that there are so many cases of die-in-harness and hence the Government will consider as per her seniority in the list of such cases. I am, however, unable to appreciate this contention as to how the question of seniority arises in such a case. The petitioner's husband died on September 24, 1995 that is about ten months back leaving the petitioner and three minor children. But even though the petitioner submitted a number of representations, she has not been favoured with any reply. The Supreme Court in the case of Smt. Sushma Gosain and Ors. v. Union of India and Ors. reported in 1990 LLJ 169 held as under :

"It can be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

6. In the instant case a luxuriant period has already elapsed. But the records do not indicate that any step whatsoever has been taken for providing the petitioner with a post befitting her education.

7. In course of arguments a question came up as to whether a person who is already age barred is entitled to be considered under this scheme. It is made clear that this question came up before the Supreme Court and in the case of

State of Rajasthan Vs . Chandra Narain Verma;, (1994) 2 SCC 752 it has been held that the petitioner who has already crossed the maximum age prescribed for the post of Sub-Inspector may be appointed to the post of Lower Division Clerk. It is also made clear that question of maintenance of roster, so far as the die-in-hamess is concerned, is not applicable.

8. In view of the facts and circumstances, I see no reason why the respondents should not be directed to appoint the petitioner to a post commensurate with her academic qualifications. Accordingly, I direct the respondents to appoint the petitioner to a post commensurate with her qualifications within a period of two months from the date of this judgment. No costs.

9. The petitioner may take a certified copy of this judgment and submit it to the Respondent No. 2.