
(2006) 12 GAU CK 0007
In the Gauhati High Court

Nripendra Deb Roy

APPELLANT

Vs

State of Tripura and Another

RESPONDENT

Date of Decision : 05-12-2006

Acts Referred:

Citation : (2007) 2 GLR 349 : (2007) 1 GLT 773

Hon'ble Judges : R.B. Misra, J;Maibam B.K. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.B. Misra, J.—Heard Mr. D.K. Biswas, learned Counsel for the appellant as well as Mr. J. Majumder, learned state counsel for the respondents.

2. The present writ appeal has been preferred against the order dated 4.9.2000 passed by the learned Single Judge in Civil Rule No. 102 of 1992 whereby the said Civil Rule filed by the elder brother of husband of the deceased Manjulika Paul (Deb Roy), Assistant Teacher, Lankamura High School was rejected for lack of nomination as required under the Central Civil Services (Pension) Rules, 1972 as adopted by the State of Tripura ("the Rules, 1972").

3. It appears that Manjulika Paul (Deb Roy) while working as Assistant Teacher in Lankamura High School had died and when question for payment of her death-cum-retirement gratuity came for consideration in reference to the claim by present appellant Shri Nripendra Deb Roy who claimed to be in possession of the said nomination made in his favour, however, the same was not produced and available in the official record, therefore treating him to have not been duly nominated, his claim for getting the death-cum-retirement gratuity benefit was rejected.

4. Affidavit-in-Opposition of the State of Tripura was filed in the C.R. Case No. 102 of 1992 indicates that no nomination was made by Manjulika Paul. (Deb Roy), as revealed from the original records produced before the learned Single Judge, According to State in case of non-nomination in favour of any person, the

gratuity shall lapse to the Government.

5. Learned Single Judge has analyzed the provisions of Rule 52 and 53 of the Rules, 1972 as adopted in the State of Tripura and has arrived at a finding that in absence of any nomination by late Manjulika Paul (Deb Roy) to a particular person, the death-cum-retirement gratuity could not be given to the writ-petitioner.

6. Rule 50 of "Rules 1972" provides death-cum-retirement gratuity, Rule 51 deals With persons to whom gratuity is payable. Rule 52 deals with lapse of death-cum-retirement gratuity and Rule 53 deals with nomination. For convenience the relevant Rule 52 and 53(7) of the "Rules 1972" are quoted as below:

52. Lapse of death-cum-retirement gratuity.

Where a Government servant dies while in service or after retirement without receiving the amount of gratuity and leaves behind no family and-

(a) has made no nomination, or

(b) the nomination made does not subsist,

the amount of death-cum-retirement gratuity payable in respect of such Government servant under Rule 50 shall lapse to the Government.

53(7)(a) Every nomination made (including every notice of cancellation, if any, given) by a Government Servant under this rule shall be sent-

(i) in case the Government is a permanent Gazetted Government servant referred to in Sub-rule (1) of Rule 59, to the audit officer concerned; and

(ii) in any other case, including that of a Gazetted Government servant referred to in Sub-rule (1) of Rule 59, to the Head of Office.

(b) The Audit Officer or the Head of Office, as the case may be, shall, immediately on receipt of the nomination referred to in Clause (a), countersign it indicating the date of receipt and keep it under his custody.

(c)(i) The Head of Office may authorize his subordinate Gazetted Officer to countersign the nomination form of non-Gazetted Government servants.

(ii) Suitable entries regarding receipt of nomination shall be made in the Service Book of the non-Gazetted Government servants.

7. From the foregoing provisions it is clear that suitable entries in respect of nomination shall have to be made in the Service Book of the non-Gazetted Government Servant in view of Rule 53(7)(c)(ii) of "Rules 1972" and in view of Rule 52 in absence of any valid nomination, the amount of death-cum-retirement gratuity in respect of the Government servant shall lapse to the Government. We are of the considered view that nomination in favour of some person is

mandatory and death-cum-retirement gratuity shall have to be paid only to the authorized person duly nominated under the provisions of Rule 51 of the "Rules 1972." In the present case, since the deceased Manjulika Paul (Deb Roy) had not nominated any person, therefore, in absence of nomination the amount of Rs. 30,000 is to lapse to the Government. In such circumstances, the order of the learned Single Judge refusing to grant relief to the writ petitioner is legally correct and the order for disbursement of Rs. 30,000 (thirty thousand) to the High Court Bar Association, Agartala cannot be treated as improper. We do not find any illegality and impropriety in the impugned order, therefore, the impugned order dated 4.9.2000 is not interfered with.

8. The writ appeal is accordingly dismissed.