

(2013) 07 TP CK 0008

In the Tripura High Court

Case No : Writ Petition (C) No. 140 of 2003

Uttam Rabi Das Vs State of Tripura and Others

Date of Decision : 10-07-2013

Acts Referred:

Citation : (2013) 07 TP CK 0008

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : B. Das, Mr. D. Chakraborty, Ms. S. Das and Ms. U. Roy, for the Appellant; D.C. Nath, for the Respondent

Judgement

S.C. Das, J.—Heard learned counsel, Mr. D. Chakraborty for the petitioner and learned State counsel, Mr. D.C. Nath for the respondents. Birchand Rabidas, father of the petitioner Uttam Rabidas while working as a Sr. Production Assistant under the Directorate of Industries & Commerce, Government of Tripura, died on 12.01.2001 leaving behind the petitioner and other members of the family and he was the sole bread earner of the family. The petitioner was minor at the time of death of his father and made an application on 14.03.2002 to give him a suitable employment under the "Die In-harness Scheme". He attained majority (18 years) on 25.06.2002. The Department, by Memo dated 11.06.2002 (Annexure-D to the writ petition) rejected the prayer of the petitioner on the ground that the petitioner did not submit the petition for the benefit of employment under "Die In-harness Scheme" within one year of the death of his father. The petitioner, thereafter also made representation but his representation was turned down and, therefore the writ petition is filed with a prayer for directing the respondents to give him a suitable employment under the "Die In-harness Scheme".

2. The respondents contested the case by filing written counter, inter alia stating that the petitioner did not approach the department within one year from the date of death of his father and, therefore was not eligible to an employment under the scheme.

3. Learned counsel, Mr. Chakraborty appearing for the petitioner submits that

under Notification dated 28.08.1998 (Annexure-C to the writ petition), a general relaxation of one year in respect of the prescribed minimum age for employment has been given by the Government but that notification either was not in the notice of the authority or that the authority ignored that notification of the Government and, thereby deprived the petitioner from a legitimate employment under the scheme. Learned counsel, Mr. Chakraborty, therefore, prayed for appropriate order.

4. Learned State counsel, Mr. Nath explained Memo, dated 28.08.1998 contending that had the petitioner made an application within one year from the date of death of his father he would get the benefit of relaxation of one year in respect of his age for the purpose of employment. Since the application was not made within one year, the petitioner got disqualified from getting the benefit under the "Die In-harness Scheme". It is contended by learned State counsel, Mr. Nath that "Die In-harness Scheme" is a beneficial scheme to render immediate relief to a member of the family of the deceased employee so that the members of the family do not suffer from financial crisis. Already more than twelve years passed in the meantime, so there is no necessity of giving any benefit of the scheme to the petitioner.

5. It is an undisputed fact that the father of the petitioner was an employee under the respondents and he died in-harness on 12.01.2001. It is also an undisputed fact that the petitioner was minor at that time and he attained majority i.e. eighteen years on 25.06.2002. It is also an undisputed fact that the petitioner made an application for benefit under the scheme on 14.03.2002 and the petition was rejected on 11.06.2002.

6. A copy of the scheme dated 13.08.1998 has been annexed as Annexure-R.2 to the counter affidavit of the respondents.

Paragraph 1(ii) of the Memo. prescribes-

The eligibility shall be determined as on the date of death of the concerned employee".

By Memo. dated 28.08.1998, which is annexed by both the petitioner as well as the respondents, a general relaxation of one year has been prescribed in respect of a job seeker under the scheme, who is a minor at the time of death of the government employee. The Memo. dated 28.08.1998 reads as follows--

In partial modification of the provision contained in para 1(ii) of the Appointment & Service Department's Memo No. FI(2)-GA/77 dated 13.08.1996 in regard to the institutions of the State Government towards regulating the "Die-in-harness" cases it has been decided by the Government that in the case of applicants otherwise eligible but under-aged at the time of death of Government employee concerned, the applicant shall be allowed a general relaxation of one year in the prescribed minimum age for employment in Government service, subject to the condition that actual employment will be given only after the prescribe minimum

age is reached.

2. This relaxation shall take effect from 1st July, 1996.

7. A bare reading of the Memorandum makes it abundantly clear that the petitioner was entitled to get one year relaxation for the purpose of employment from the date of death of his father. So, while he made the application on 14.03.2002 for employment and he attained the majority on 25.06.2002 the Department would consider his prayer and would not reject the petition on 11.06.2002 saying that the petition was not filed within one year from the date of the death of the employee concerned i.e. the father of the petitioner. A beneficial scheme should be interpreted generously with a view to afford the benefits to the deserving persons and not to deprive them from the same. While it is admitted that father of the petitioner died in-harness leaving behind the petitioner and other members of the family, the Department would generously consider the prayer of the petitioner for his employment or in the alternative would give the benefit as prescribed in paragraph 3 of the Notification dated 13.08.1996. When his prayer for employment was rejected even the benefit as prescribed in paragraph 3(1) of the Notification dated 13.08.1996 was also not given to the petitioner. Under the facts and circumstances, I find it justified to give direction to the respondents to give a suitable job to the petitioner under the scheme which is still in force.

8. Accordingly, the writ petition is allowed. The respondents are directed to give a suitable employment to the petitioner under the "Die In-harness Scheme" within three months from today. The writ petition is accordingly allowed and disposed of.