

(2024) 07 TP CK 0031

Tripura High Court- Agartala

Case No: Writ Petition (C) No. 492 Of 2024

Uttam Kumar Paul, Son Of Late
Sukumar Paul

APPELLANT

Vs

State Of Tripura, Represented By
The Principal Secretary,
Department Of Power, New
Secretariat Complex, Khejur
Bagan, P. O. Secretariat S. O., P. S.
New Capital Complex, District -
West Tripura, Pin - 799010 & Ors.

RESPONDENT

Date of Decision: July 25, 2024

Acts Referred:

- Constitution Of India, 1949 - Article 14, 16, 226

Hon'ble Judges: Aparesh Kumar Singh, CJ

Bench: Single Bench

Advocate: D.C. Saha, B. N. Majumder, D.J. Saha

Final Decision: Dismissed

Judgement

Aparesh Kumar Singh, J

[1] Heard Mr. D.C. Saha, learned counsel for the petitioner and Mr. B. N. Majumder, learned senior counsel assisted by Mr. D. J. Saha, learned counsel appearing for the respondents.

[2] Petitioner's mother died as a regular employee of the respondent-Tripura State Electricity Corporation Limited (TSECL) having been regularized in service on 02.04.2011 while under the deputation from the Power Department of the Government of Tripura. Several employees were deputed at the time of creation of the Corporation with effect from 01.01.2005. The employees of the Power Department during the period of their deputation under the Corporation were covered under the Die-in-harness Scheme as per memorandum dated 01.06.2005 (Annexure-8) issued by the General Administration (P&T) Department, Government of Tripura. However, once the services of such employees like the petitioner's mother was absorbed in the Corporation, they no longer remain employee of the State Government. Therefore, they were taken out of the cover of the Die-in-harness scheme prevalent under the State Government which has been revised from time to time. On this ground, the application of the petitioner for compassionate appointment upon death of her mother on 09.10.2016 has been regretted by the impugned order dated 02.05.2024 passed upon a direction of the writ Court in WP(C) No.480/2023 to decide representation of the petitioner in accordance

with law. Petitioner being aggrieved by the order of rejection dated 02.05.2024 (Annexure-6) has approached this Court.

[3] Mr. D.C. Saha, learned counsel for the petitioner has relied upon the judgment rendered by the division bench of this Court in the case of **Sri Subash Sarkar versus The State of Tripura and others** passed in **W.A. No. 70/2018** dated **15.07.2019**. However, the said case is distinguishable on facts as the concerned employee i.e. the appellant's father died on 18.01.2006 while under deputation under the TSECL from the Power Department, Government of Tripura. During that period employees on deputation with the Corporation were covered under the Die-in-harness scheme of the State Government. However, since the Corporation has not framed any such scheme for compassionate appointment or Die-in-harness scheme, full time employees under regular employment of the Corporation are not governed by any such scheme. Claim for compassionate appointment can be raised only in consonance with such a scheme existing under the organization as it is an exception to the general rule of appointment under Article 14 and 16 of the Constitution of India. This position in law is well settled.

[4] As such, in the absence of scheme no appointments on compassionate grounds could have been granted in favour of the petitioner on account of death of her mother. The impugned order by which his claim has been regretted, therefore, does not suffer from any illegality calling for interference by this Court under Article 226 of the Constitution of India.

[5] Accordingly, the present petition is dismissed. Pending application(s), if any, also stands disposed of.