

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.579/2019

Sri Litan Shil, S/O Late Gita Rani Shil (mother) and late Gopal Chandra Shil (father), of School Tilla, Ward No.5, Panisagar Nagar Panchayat, P.O.-Panisagar, North Tripura.

----Petitioner(s)

Versus

The State of Tripura & others

-----Respondent(s)

For Petitioner(s) : Ms. R. Purkayastha, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharjee, G.A.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Date of hearing and judgment: **20th December, 2019.**

JUDGMENT & ORDER(ORAL)

Heard learned counsel for the parties for final disposal of the petition.

2. Petitioner is a son of one Gita Rani Shil. She was working as a Group-D employee in the Department of School Education. While in service she died on 13.05.2015. The petitioner submitted an application to the department on 05.05.2016 for compassionate appointment. This application was not considered for a long time. Eventually the department under letter dated 07.03.2019 conveyed to the petitioner that no objection certificate from Sri Sudhangshu Shil, the brother of the petitioner has not been produced. Being a son of the deceased Government employee the no objection certificate of Sudhangshu Shil would be necessary.

3. The record would show that the deceased Government servants left behind two sons and one married daughter. Case of the petitioner is that his brother has separated from the family of the deceased Government servant since long, resides separately with his family and does not have very good relations with the petitioner. He is, therefore, not willing to issue any such no objection certificate, nevertheless he himself has never applied for compassionate appointment which would show that he is in any case not interested in any such appointment for himself.

4. The die-in-harness scheme formulated by the State of Tripura under notification dated 26.12.2015 prescribes different formats of applications to be made under the scheme. Annexure-II referred to in paragraph-14 of the said scheme prescribes the format of no objection certificate to be given by other family member of the deceased Government servant. Thus, the scheme undoubtedly requires that when there are more than one eligible members of the deceased Government servant, the application for compassionate appointment made by one of them would be accompanied by no objection from the remaining dependent eligible members of the family. This requirement can be easily appreciated since this would eliminate any possibility of conflict of interests and one dependent member of the family seeking and securing compassionate appointment keeping the other members in dark. However, this requirement cannot be implemented rigidly. There may be several situations and circumstances where it may not be possible for the applicant dependent member of the deceased

Government employee to produce such no objection from other family members. One situation as in the present case could be, relations between the two not being cordial. Another circumstance could be where two or more dependents of the Government servant may be interested in compassionate appointment. In case of such rival claims it would be the duty of the Government to decide the priority on basis of some fair formula. However, in the present case, we need not examine the latest scenario since the brother of the petitioner has shown no interest in securing compassionate appointment for himself. This conclusion I have arrived at in view of the fact that despite being served with a notice of this Court he has not participated in this petition.

5. Under the circumstances, the respondents shall consider the application of the petitioner for compassionate appointment without insisting on no objection being granted from his brother. Decision on merits shall be taken within a period of 3(three) months from today and communicated to the petitioner.

6. Petition is disposed of accordingly.

(AKIL KURESHI), CJ