

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.30 OF 2022**

Sri Jaharlal Shil

..... **Petitioner(s)**

Vs.

The State of Tripura and ors.

..... **Respondent(s)**

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. N. Ghosh, Advocate.

For the Respondent(s) : Mr. D. Sarma, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 27.03..2023.

Whether fit for reporting : YES/NO.

HON'BLE THE CHIEF JUSTICE(ACTING)

JUDGMENT AND ORDER(ORAL)

The brief fact of this present writ petition is that the petitioner was engaged as a casual worker, w.e.f. 01.06.2992 under the Deputy Conservator of Forest, Research Division Agartala. But the respondents reckoned 15.05.1999 as the date of engagement of the petitioner as a casual worker. Vide order dated 17.06.2009, issued by the Conservator of Forest, WRT Circle, Agartala, the petitioner along with others were appointed as Permanent labourer with retrospective effect from

01.01.2007. Since his engagement as a casual labourer, the petitioner served uninterruptedly under the Forest Department. Vide memorandum dated 07.01.2017, the petitioner was regularized in the post of Forest Farm Worker. The petitioner was appointed and joined as a Forest Farm worker w.e.f. 06.01.2017 under the Forest Department, Government of India. The petitioner after attaining the age of superannuation, was treated to be released from Government service in the afternoon on 28.02.2018. According to the petitioner, he is entitled to regular monthly pension and other pensionary benefits such as gratuity, leave encashment etc., and for determining such admissible benefits, the regular service of the petitioner plus 50% of the service rendered by the petitioner before his regularization i.e. during the period of 01.06.1992 to 06.01.2017 are required to be taken into account.

2. Vide memo dated 06.04.2018, issued by the Deputy Conservator of Forest, Research Division, provisional pension @ Rs.6,512/- has been sanctioned to the petitioner for a period of 6(six) months w.e.f. 01.03.2018 to 31.08.2018 and $\frac{3}{4}$ Death-cum-retirement Gratuity @ Rs.59,689/- was also sanctioned to the petitioner.

3. According to the petitioner, the gratuity paid to the petitioner is required to be re-determined after taking into

account 50% of the service rendered by the petitioner w.e.f. 01.06.1992 to 06.01.2017 plus regular service and the gratuity is to be paid after adjusting the amount already paid with interest @ 7.5 % per annum w.e.f. 28.03.2018 till actual payment is made.

4. The petitioner vide representation dated 22.03.2021, approached the Principal Chief Conservator of Forest, Tripura, for allowing regular monthly pension and other pensionary benefits by taking into consideration 50% of the service rendered by him as casual Worker before his regularization plus his regular service. The Deputy Conservator of Forest, in response to the application of the petitioner dated 22.03.2021 sent a letter dated 13.04.2021 to the petitioner stating that as the petitioner has not completed 10(ten) years of service which is prerequisite for payment of pension, the petitioner is not eligible for payment of pension.

5. In such circumstance, the petitioner has filed this present writ petition under Article 226 of the Constitution of India praying for the following reliefs:-

" i. Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order or direction shall not be issued whereby directing the respondents to count 50% of the service rendered by the petitioner w.e.f. 01.06.1992 to 01.01.2007 plus service rendered by the petitioner w.e.f. 01.01.2007 to 28.02.2018 for the purpose of determining the qualifying service rendered by the petitioner for the purpose of regular monthly pension and other pensionary benefits.

ii. Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order or direction shall not be issued whereby directing the respondents to release arrear pension with 9% interest w.e.f. 28.02.2018 till date and thereafter to the payment of regular pension.

iii. Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order or direction shall not be issued whereby directing the respondents to re-determine the gratuity paid to the petitioner after taking into account 50% of the service rendered by the petitioner w.e.f. 01.06.1992 to 06.01.2017 plus regular service and to pay the gratuity after adjusting the amount already paid with interest @ 7.5% per annum w.e.f. 28.03.2019 till actual payment is made.

iv. Make the rules absolute,

v. Call for records.

vi. Pass any further order/orders as this Hon'ble High Court considered fit and proper."

6. Heard Mr. P. Roy Barman, learned Sr. counsel assisted by Ms. N. Ghosh, learned counsel appearing for the petitioner as well as Mr. D. Sharma, learned Addl. G.A. appearing for the respondents.

7. Mr. Roy Barman, learned Sr. counsel submits that the respondents are under obligation to sanction and release regular pension and other pensionary benefits under CCS(Pension) Rules, 1972, to the petitioner taking into account 50% of the service rendered by the petitioner w.e.f. 01.06.1992 plus regular service rendered by the petitioner. The respondents have infringed upon the legal and constitutional rights of the petitioner.

8. Mr. D. Sharma, learned Addl. G.A. appearing for the respondents submits that decisions, as taken by the

respondents, are just and proper and within the legal framework.

9. Heard both sides and perused the evidence on record. This instant writ petition is disposed of directing the respondents to consider the case of the petitioner and pass a speaking order within a period of 1(one) month from the date of receipt of the copy of the representation from the petitioner. The respondents shall consider the case of the petitioner herein without taking into reference the earlier order of rejection of the claim of the petitioner for making the payment considering his case for eligibility for pension.

10. With the above observation and direction, this instant writ petition stands disposed of. Stay if any is vacated, pending application(s), if any, stands closed.

CHIEF JUSTICE (ACTING)

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