

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.22/2020

Sri Sudip Goswami, S/O. Sri Brajalal Goswami, resident of Shyamalibazar,
P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura.

..... Appellant(s)

V E R S U S

1. The State of Tripura, represented by its Secretary, Department of Health and Family Welfare, Government of Tripura, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura.

2. The Director of Medical Education, Health and Family Welfare Department, Government of Tripura, P.O.-Agartala, P.S.-West Agartala, District-West Tripura.

3. The Principal Secretary, Department of Finance, Government of Tripura, P.O.-Agartala, P.S.-West Agartala, District-West Tripura.

.....Respondent(s)

4. The Secretary, Department of Home (Fire Service), Government of Tripura, P.O.-Agartala, P.S.-West Agartala, District-West Tripura.

.....Proforma Respondent(s)

For Appellant(s) : Mr. Arijit Bhaumik, Advocate,
Mr. Ankan Tilak Paul, Advocate,
Mr. S. Dey, Advocate.

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

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Date of hearing and judgment : **8th February, 2023.**

JUDGMENT & ORDER (ORAL)

Heard Mr. Arijit Bhaumik, learned counsel appearing for the appellant. Also heard Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. This writ appeal is directed against the judgment and order dated 18.12.2019 passed by the learned Single Judge in WP(C) No.1419 of 2019 whereby the learned Single Judge did not find parity of the post that the petitioner held with that of the Maintenance Superintendent, Home (Fire Service) and consequently, dismissed the writ petition.

3. Brief facts of the case are that the petitioner got appointment under the Health and Family Welfare Department as Senior Technician and by an order dated 11.05.2017 he was promoted to the post of Superintendent of Central Workshop (Group-B Gazetted) in the Pay Band-3 of Rs.10,230-34,800/- with Grade Pay of Rs.4,800/-. Case of the petitioner is that similar post of Maintenance Superintendent under the Department of Home (Fire Service) carries the pay scale in the Pay Band-4 of Rs.15,600-39,100/- with Grade Pay of Rs.6,600/- and, therefore, he asserts that the post of Superintendent of Central Workshop should also be granted the said higher pay scale as that of the Maintenance Superintendent. According to the petitioner, both the posts are to be filled by way of promotion from the respective feeder cadres that carry identical pay scales and require similar educational qualifications and the duties and responsibilities of both the posts are identical. As such, the petitioner seeks pay parity. Previously, the petitioner on the same grounds had approached the Court by filing WP(C)

No.220 of 2018 which was dismissed by the learned Single Judge vide judgment dated 09.08.2018. Petitioner challenged the said judgment in intra Court appeal whereupon the Division Bench disposed of the appeal directing the State to consider the case of the petitioner afresh in the light of additional material to be placed by the petitioner. On 27.05.2019 the petitioner made a fresh representation which was rejected by the department by order dated 30.09.2019 stating that the Health and Family Welfare Department has not considered the prayer of the petitioner for the upgraded pay scale. Being dissatisfied, he approached this Court by filing writ petition being WP(C) No.1419 of 2019 but the learned Single Judge vide impugned judgment and order dated 18.12.2019 dismissed the said petition. Aggrieved thereby, the petitioner has filed this writ appeal. Hence, this case.

4. Appellant has prayed for the following reliefs:

- "(i) Admit this appeal;
- (ii) Issue notice upon the respondents;
- (iii) Call for the relevant records;
- (iv) And after hearing the parties be pleased to allow the instant appeal against the judgement and order dated 18.12.2019 passed in W.P.(C) No.1419 of 2019 and pass necessary directions upon the Respondents.

AND/OR

Pass any other order/orders as deemed fit and proper by this Honourable Court."

5. Mr. Arijit Bhaumik, learned counsel appearing for the appellant, contends that the post of Superintendent of Central Workshop which the petitioner was holding and the post of Maintenance Superintendent under the Department of Home (Fire Service) are to be filled by way of promotion from the respective feeder cadres which carry identical pay scales and also require similar educational qualifications. He also contends that the duties and responsibilities of both the posts are also identical and as such, principle of "equal pay for equal work" can be extended in such case. Counsel further contends that though there is similarity in between the two said posts insofar as the method of recruitment, educational qualification etc., the department arbitrarily passed the order dated 30.09.2019 and the learned Single Judge without appreciating that aspect of the matter committed a serious error in passing the impugned judgment which is illegal and against the law under Articles 14, 16 and 39(d) of the Constitution of India. Accordingly, he prays for setting aside the impugned judgment and order dated 18.12.2019 passed by the learned Single Judge in WP(C) No.1419 of 2019.

6. On the other hand, Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State, vehemently objected the submissions of the learned counsel for the appellant contending that both the posts of Superintendent of Central Workshop and Maintenance

Superintendent under the Department of Home (Fire Service) are different with different conditions of service and responsibilities and the posts are also part of different departments of the Government and as such, learned Single Judge committed no error while passing the impugned judgment. Hence, he prays for dismissal of the writ appeal.

7. Having heard the submissions of the rival parties, we are of the considered view that the post of Maintenance Superintendent under the Department of Home (Fire Service) with which the petitioner has claimed pay parity is a different department of the Government with different service conditions regulated by the rules framed by the State Government. The "onus of proof" of parity in the duties and responsibilities of the post which the petitioner was holding and the post with which he seeks parity under the principle of "equal pay for equal work" completely lies on the person who claims it and who approaches the Court has to establish that the post occupied by him requires him to discharge equal work of equal value as that of the reference post. In the instant case, the onus of proof was on the shoulder of the petitioner which he was unable to discharge. As such, this Court is of the considered opinion that no parity could be claimed and the principle of "equal pay for equal work" flowing from Articles 14 and 39(d) of the Constitution of India, as prayed for by the petitioner, has no applicability in the facts and circumstances of the instant case.

8. Accordingly, the writ appeal being devoid of merit stands dismissed. The impugned judgment and order dated 18.12.2019 passed by the learned Single Judge in WP(C) No.1419 of 2019 is confirmed.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

CHIEF JUSTICE (ACTING)

Pulak



सत्यमेव जयते