

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_
IA No.01 of 2023 IN WA No.20 of 2023

Smt. Chabi Debnath

..... Applicant(s)

V E R S U S

The State of Tripura and others

.....Respondent(s)

For Applicant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,

For Respondent(s) : Mr. K. De, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE T. AMARNATH GOUD

O_R_D_E_R_

22.05.2023

Heard Mr. P Roy Barman, learned senior counsel for the appellant-applicant and Mr. K. De, learned Additional Government Advocate for the respondents-State.

The instant appeal suffers from a delay of 41 days for condonation of which IA No.01 of 2022 has been preferred.

Having heard learned counsel for the parties and having gone through the explanation urged and on being satisfied therefrom, delay of 41 days in preferring the instant memo of appeal is condoned.

Application stands disposed of.

WA No.20 of 2023

Heard Mr. P Roy Barman, learned senior counsel for the appellant and Mr. K. De, learned Additional Government Advocate on the merits of the main appeal.

By the impugned judgment dated 07.12.2022 passed in WP(C) No.729 of 2022 the learned Writ Court has refused to interfere in the writ petition seeking regularization in service on the ground that at the time of filing of the writ petition itself, the petitioner, who was engaged in the year 1983, had attained the age of 60 years and that the regularization scheme has been abolished in 2018 itself i.e. 3(three) years before the filing of the writ petition.

The learned senior counsel for the appellant submits that it would be wholly unjust and arbitrary to deny the benefit of regular scale of pay as a permanent employee to the petitioner who had served for 37 years since 1983. She had approached the Court for regularization of her service in Group-D post in terms of the regularization scheme of 2018 framed in the light of the decisions rendered by the Apex Court in cases of *Secretary, State of Karnataka and others versus UmaDevi and others* reported in (2006) 4 SCC 1 and *Narendra Kumar Tiwari versus State of Jharkhand* reported in (2018) 8 SCC 238 as the cause of action had already arisen. As such, the impugned order may be set aside and a direction be issued upon

the respondents to regularize the service of the petitioner with all consequential benefits.

Learned Additional Government Advocate has strongly opposed the prayer. He submits that not only was the writ petition suffering from gross delay but the petitioner did not have a legal right to claim regularization as the scheme of regularization had itself been abolished in the year 2018. Moreover, the writ petitioner had attained the age of 60 years at the time of filing of the writ petition and, therefore, no regularization could have been made under a non-existent scheme from retrospective date to confer benefit upon the petitioner.

On consideration of rival submissions of learned counsel for the parties and the writ records, we do not find any error in the impugned judgment. Not only had the petitioner attained the age of superannuation of 60 years at the time of filing of the writ petition but the scheme of regularization was not in existence having been abolished in the year 2018. As such, learned Writ Court has rightly refused to grant relief to the petitioner.

Accordingly, the appeal being devoid of merit is dismissed. Pending application(s), if any, also stands disposed of.

(T. AMARNATH GOUD), J

(APARESH KUMAR SINGH), CJ