

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.126 of 2023

For Petitioner(s) : Mr. A. Bhowmik, Advocate.
For Respondent(s) : Mr. D. Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

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04/03/2023

Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner. Also heard Mr. D. Sarma, learned Addl. G.A. appearing for the respondents.

The petitioner has prayed for the following reliefs:

- i. Issue notice upon the respondents.
- ii. Call for the records.
- iii. Issue rule calling upon the respondents to show cause as to why the petitioner shall not be given the benefit of one increment as per Rule-13(1) (ii) of the Tripura States Civil Services (Revised Pay) Rules, 2009 including arrears of financial benefit.

AND

Issue rule calling upon the respondents to show cause as to why the memorandum dated 6th July, 2011 issued by the Finance Department, Government of Tripura, shall not be set aside and quashed.

AND

Issue rule calling upon the respondents to show cause as to why the petitioner shall not be granted all financial benefits as per the judgment and order dated 19th March, 2021 passed in W.P.(C) No.703 of 2019 by the Hon'ble High Court as affirmed by the Judgment and order dated 06.12.2022 passed in W.A. No.207 of 2021 learned Division Bench of this Hon'ble Court.

- iv. And after hearing the parties, be pleased to make the rule absolute."

The case of the petitioner is that the petitioner approaches this Court by way of filing this present petition under Article-226 of the Constitution of India seeking a writ of mandamus directing the respondents to grant one increment in favour of the petitioner for the B. Ed. training undergone by the petitioner prior to entry into the service as per Rule-13(1)(ii) of the Tripura States Civil Services (Revised Pay) Rules, 2009.

The petitioner further sought a writ of certiorari for setting aside the memorandum dated 6th July, 2011 issued by the Finance Department, Government of Tripura whereby a decision has been taken to provide lumpsum benefit as training incentive in lieu of increment as provided under Rule-

13(1)(ii) of the Tripura States Civil Services (Revised Pay) Rules, 2009. The petitioner further raised grievance regarding violation of Rule-13(1)(ii) of the Tripura States Civil Services (Revised Pay) Rules, 2009. The petitioner is serving as Post Graduate Teacher in History subject and the petitioner completed his B.Ed on 30.09.2008 i.e. the date of publication of result.

Thereafter, the petitioner received the offer of appointment as Post Graduate Teacher in History subject under Darchawi Christian H.S. School which is a grant-in-aid School of the government of Tripura. Accordingly, joined in service pursuant to the offer of appointment on and subsequent Memo dated 03.03.2010 w.e.f. 19.09.2009. Thereafter, the petitioner was on fixed pay for a period of 5 years and upon completion of 5 years service on fixed pay basis, the petitioner was granted regular scale of pay vide memorandum dated 17.06.2015.

The Finance Department, Government of Tripura issued a memorandum on 6th July, 2011 whereby it was provided that the fixed pay employees do not come under the purview of revision of pay rules and therefore, the teachers who completed the B.Ed. prior to entry into service are entitled to lumpsum benefit and not the increment as provided under the rules. The said memorandum dated 6th July, 2011 is contrary to the rules of 2009 as Rule-13(1)(ii) of the Rules of 2009 clearly provides that a teacher entering into service B. Ed/UGBT training are entitled to one increment.

Similar issue had already been decided by this Court in W.P.(C) No.703 of 2019 vide judgment and order dated 19th March, 2021. In the said judgment, this Court held that the case of the petitioner of the said writ petition would fall under Clause(ii) of Rule 13(1) of the Revised Pay Rules of 2009 as the said writ petitioner possessed the B.Ed. Degree when the said writ petitioners joined the service. The petitioner states that he has completed his B.Ed. before entering service and therefore, from a separate class being trained teachers and therefore are covered by Rule-13(1)(ii) of the Revised Pay rules of 2009 and as such, the petitioners are entitled to one increment as per the said Rule-13(1)(ii) of the Rules, 2009. The memorandum dated 6th July, 2011 which

restricts the operation of Rule-13(1)(ii) of the Rules, 2009 is illegal being violative of the statute. Hence, the present writ petition.

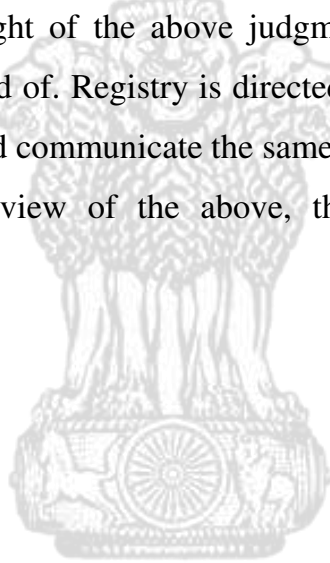
In view of above discussions and after interacting with the learned counsel appearing for the parties, this Court is of the view that the petitioner is a school teacher and he is claiming for his entitlement of one increment and the subject matter in question has already been decided by this Court vide order dated 19th March, 2021 passed in W.P.(C) No.703 of 2019 which was subsequently, affirmed by the Division Bench of this Court vide judgment and order dated 06.12.2022 passed in 207 of 2021. It has been represented by both the parties that the subject matter is covered by the order passed in WP(C) No.703 of 2019 which was confirmed subsequently by the judgment and order dated 06.12.2022 passed in W.A. No.207 of 2021.

In the light of the above judgment and order, the present writ petition stands disposed of. Registry is directed to enclose a copy of the above judgment and order and communicate the same to the petitioner.

In that view of the above, the present writ petition stands disposed of.

CHIEF JUSTICE [ACTING]

A. Ghosh



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