

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 183 of 2022

Sri Biman Behari Goswami

S/o Lt. Bana Behari Goswami,
Resident of Dreamz Exotica, Flat No.1A8,
VIP Road, Agartala Tripura West
PO: Kunjaban, PIN: 799006

---Petitioner(s)

Versus

1. The State of Tripura

represented by the Secretary Higher Education Department,
PO: Secretariat, West Tripura, PIN: 799010, Agartala, Tripura

2. The Director of Higher Education,

Government of Tripura, PO: Agartala, PIN: 799001.

---Respondent(s)

For Appellant(s)	: Mr. C. S. Sinha, Adv.
For Respondent(s)	: Mr. D. Bhattacharjee, GA.
Date of hearing and date of judgment and order	: 23.05.2023.
Whether fit for reporting	: Yes.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

The present writ petition is filed by the petitioner under Article 226 of the Constitution of India for the following reliefs:

- a) Admit this petition
- b) Call for records.
- c) Issue writ in the nature of Mandamus calling upon the respondents to show cause as to why the fixation of pension of petitioner should not be done in the revised pay scale under the 7th Central Pay Commission for short 7th CPC effected from 01.01.2016.
- d) Issue writ in the nature of mandamus calling upon the respondents to show cause as to why the fixation of pay of petitioner should not be done in the revised pay scale under the 7th Central Pay Commission for short 7th CPC effected from 01.01.2016.
- e) Issue writ in the nature of certiorari calling upon the respondents to show cause as to why the order dated 01.09.2021 should not be declared bad in law and quashed.
- f) Issue writ in the nature of certiorari calling upon the respondents to show cause as to why the notification dated 25.06.2019 should not be declared bad in law for having no whispering about the fixation of pay in the revised pay scale of 7th CPC and giving scope of arbitrary exercise of power denying appropriate pension in the revised pay scale of 7th CPC.
- g) Pass any other relief(s) which this court deem fit and proper in this case.

[2] It is the case of the petitioner that he is a retired Associate Professor in Economics. He retired from service on 01.07.2017. The 7th CPC came into effect

from 01.01.2016. But on the pretext that he has retired from service prior to 01.10.2017, neither did he get pension nor did he get benefit of revised pay under the 7th CPC. It is also evident from the records that the petitioner had earlier approached this court by way of filing a writ petition being WP(C)323 of 2020 urging the court to consider his case of pay revision and consequentially provide all monetary benefits. During the pendency of the said writ petition, the petitioner made a representation on 07.01.2020 to the respondents and the same was rejected by the respondents on 01.09.2021. The Hon'ble Court was pleased to dispose of the said writ petition being WP(C) 323 of 2020 by the order dated 02.03.2021 directing the respondents to consider the case of the petitioner and communicate the said decision to the petitioner. And in the event if the respondents do not comply that order, the petitioner will be at liberty to approach this court. The respondents by the order dated 01.09.2021 has considered the case of the petitioner and rejected the same. The respondents by the order dated 01.09.2021 has passed the following speaking order:

"Whereas, in the instant case, neither the State Government has created two different groups of pensioners nor has the petitioner been subjected to differential treatments. The petitioner got his pension from the same date as that of other in-service faculties or other retired faculties. Therefore, there is no question of any deprivation on the part of the petitioner in framing scheme by the education (Higher) Department, giving it a time of implementation from 01.10.2017.

Now, therefore, giving the above and after careful examination of the matter, it appears that there is no sufficient ground in the claim of the petitioner to implement the date of UGC Scheme retrospectively from 01.01.2016. Hence the claim of the petitioner cannot be accepted."

[3] Thus aggrieved by the same, the petitioner has filed the present writ petition.

[4] Mr. Sinha, learned counsel appearing for the petitioner has contended that the scheme adopted by the state of Tripura vide Notification No.F.1(499)-DHE/Estt./(G)/2017/728 dated 25.06.2019 (Annexure-3 to the writ petition) is arbitrary and discriminatory and the same needs to be set aside on the ground that the notification dated 25.06.2019 is inconsistent in comparison to the scheme

as framed by the University Grants Commission (UGC), Government of India vide communication dated 02.11.2017 (Annexure-1 to the writ petition). Mr. Sinha, learned counsel for the petitioner further contended that the scheme of the UGC came into effect on 01.01.2016 and the petitioner herein retired on 01.07.2017. Therefore, according to Mr. Sinha, learned counsel for the petitioner, the petitioner herein is entitled for the benefits with retrospective effect from 01.01.2016.

[5] Mr. D. Bhattacharjee, learned GA appearing for the respondents filed a counter affidavit and contended that the state-respondents has not acted in arbitrary manner. No discrimination has been made to the petitioner neither did any inconsistency has been noticed in the scheme adopted by the State of Tripura vide notification dated 25.06.2019 in pursuance to the said scheme adopted by UGC which came into effect on 01.01.2016. According to him, no discrimination has also been made in implementing the scheme of revision of pay scales (7th CPC) vide letter dated 31.03.2022. The state of Tripura is following the scheme of UGC as communicated vide letter dated 02.11.2017 by bringing certain modifications as which is permissible by the main scheme came into effect on 01.10.2017 and thus the petitioner is not entitled to claim any relief and also the benefit cannot be extended retrospectively and prayed to dismiss the writ petition.

[6] Heard both sides.

[7] It becomes relevant to incorporate the relevant portion of the scheme vide letter dated 02.11.2017 which reads as under:

**No.1-7/2015-U.II(1)
Government of India
Ministry of Human Resource Development
Department of Higher Education**

New Delhi, dated the 2nd November, 2017

**To
The Secretary,
University Grants Commission
Bahadurshah Zafar Marg,
New Delhi – 110002.**

Subject:- Scheme of revision of pay of teachers and equivalent cadres in universities and colleges following the revision of pay scales of Central Government employees on the recommendations of the 7th Central Pay Commission (CPC)

Sir,

I am directed to say that the Government of India have decided, after taking into consideration the recommendations made by the Pay Review Committee (PRC), constituted by the University Grants Commission (UGC), and decision of the UGC taken at the meeting of the Commission held on 22nd February, 2017, to revise the pay scales of teachers in the Higher Educational Institutions under the purview of the UGC. The revision of pay scales of teachers and equivalent academic staff shall be subject to various provisions of the Scheme of revision of pay scales as contained in this letter and Regulations issued by UGC and amendments thereof from time to time in this behalf. The revised pay scales and other provisions of the Scheme are as under:

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....
- 6.....

"7. Date of Implementation :The date of implementation of the above revised pay shall be 1st January, 2016.

- 8.....
- 9.....
- 10.....
- 11.....
- 12.....
- 13.....
- 14.....
- 15.....

16. Applicability of the Scheme:

- (i)
- (ii).....
- (iii).....

(iv) This scheme may be extended to universities, Colleges and other higher educational institutions coming under the purview of State legislatures provided state governments wish to adopt and implement the scheme subject to the following terms and condition:

- (a).....
- (b).....
- (c).....
- (d).....
- (e).....
- (f).....

(g) State governments, taking into consideration other local conditions, may also decide in their discretion, to introduce pay higher than those mentioned in this scheme, and shall give effect to the revised bands/scales of pay from 01.01.2016; however, in such cases, the details of modifications proposed shall be furnished to the Central Government and Central assistance shall be restricted to the Pay as approved by the Central Government and not to any higher pay fixed by the State Government(s).

(h) Payment of Central assistance for implementing this Scheme is also subject to the condition that the entire Scheme of revision of pay scales, together with all the conditions to be laid down by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under their jurisdiction as a composite scheme without any modification except in regard to the date of implementation and pay scales mentioned herein above.

17. Date of implementation of revised pay and allowance and payment of arrears.

(i) The revised pay and revised rates of Dearness Allowances under this Scheme shall be effective from 01.01.2016.

- 18.....
- 19.....

20 This issues with the concurrence of Internal Finance Division vide Dy. No3738/IFD dated 2nd November, 2017.

Yours faithfully

(Dr. K.K. Tripathy)
Director
02/11/2017

[8] In pursuance of the above scheme, State of Tripura has issued its scheme vide notification dated 25.06.2019 and the relevant portion is extracted herein under:

Government of Tripura
Education (Higher) Department
No.F.1(499)-DHE/Estt(G)/2017 Dated 25th June, 2019

NOTIFICATION

Subject: - Revision of pay scales of teachers in the State Universities, General Degree, Colleges and institute of Advance studies in Education, College of Teacher Education (CTE), Government Music College, Government Law College under the University Grants Commission on the recommendation of 7th Central Pay Commission (CPC).

The government of India, Ministry of Human Resource Development, Department of Higher Education vide their letter No.1-7/2015-U.II(1) dated 2nd November, 2017 has communicated the new scheme of revision of pay scales of Central Government employees on the recommendations of the 7th Central Pay Commission (CPC) to the University Grants Commission (UGC) with a copy to all the State Governments. In the said letter it has been indicated that the revision of pay scales of teachers and equivalent academic staff shall be subject to various provisions of the scheme of revision of pay scales as contained in the letter and Regulations issued by UGC and amendments thereof from time to time in this behalf.

After careful consideration of the matter in order to attract and retain talent in teaching profession, the Government of Tripura has decided to introduce this scheme of revised pay structure as recommended by the Government of India for the teachers in all State Universities, General Degree College, Institute of Advance studies in Education, College of Teacher Education (CTE), Government Music College, Government Law College of the State with few modifications. This scheme shall be applicable to teachers who were/are recruited in the regular scale of pay through prescribed recruitment process.

The revised pay structure and other provisions of the scheme adopted are as under:

"1.....

2.....

3.....

4.....

"5. Date of effect: The date of implementation of the revision of pay shall be 1st October, 2017."

6.....

7.....

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9.....

10. Applicability of the scheme

(a)

(b)

(c).....

(d)....

(e)....

(f) Financial assistance from the Central Government shall be restricted to revision of pay scaled in respect of only those posts which were in existence and had been filled up as on 01.10.2017.

(g) Payment of Central assistance for implementing this scheme is also subject to the condition that the entire Scheme of revision of pay scales, together with all the conditions to be laid down by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under the jurisdiction as a composite scheme without any modification except in regard to the date of implementation any pay scales mentioned herein above.

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17. The Accountant General of Tripura is being informed.

(Saumya Gupta)

Secretary

To the Government of Tripura

25/06/2019

[9] The relevant portion of the letter dated 31.03.2022 is extracted herein under:

F.No.1-11/2019-U.II
Government of India
Ministry of Education
Department of Higher Education
University-II Section

New Delhi, dated 31st March, 2022

To,

The Principal Accounts Officer,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi

Subject: - Reimbursement of central share for implementation of the scheme of revision of pay scales (7th CPC) of university and college teachers of the Govt. of Tripura

Sir,

I am directed to say that the Government of India had revised pay of teachers and other equivalent cadres in university and college based on the recommendations of the 7th Central Pay Commission (7th CPC). vide this Department's letter No.1-7/2015-U.II(1) dated 2nd November, 2017 and 8th November, 2017. The Central Government had decided to provide financial assistance to State Governments opting to revise pay scales of teachers and other equivalent cadre, as per above said letters of this Department, by way of reimbursement, to the extent of 50% (fifty percent) of the additional expenditure involved in the implementation of the pay revision, for the universities, colleges and other higher educational institutions funded by the State Government, for the period from 01.01.2016 to 31.03.2019, subject to fulfillment of prescribed terms and conditions. The guidelines for reimbursement of financial burden due to

implementation of revised pay scales on the basis of 7th Pay Commission recommendations for teachers and equivalent cadres in Universities and Colleges from 01.01.2016 had been forwarded to all State Governments, vide letter No.1-1/2018-U.II dated 26th July, 2018 and 11th September, 2018, for information and necessary action.

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4. The grant will be further subject to the following terms and conditions:

(a).....

(b).....

(c).....

(d)....

(e).....

(f).....

(g).....

(h) payment of central assistance for implementing this scheme is also subject to the condition that the entire scheme of revision of pay scales, together with all the conditions to be laid down by the UGC by way of Regulations and other guidelines shall be implemented by State Governments and Universities and Colleges coming under their jurisdiction as a composite scheme without any modification except in regard to the date of implementation and pay scales mentioned herein above."

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10. Principal Accounts Office is requested to issue necessary Advice to Reserve Bank of India, Central Accounts Section, Nagpur immediately for crediting the above amount to Tripura Govt's account, under intimation to the undersigned.\

Yours faithfully

(Ghanshyam)

Under Secretary to the Govt. of India"

[10] During the course of the argument on the point of arbitrariness, Mr. Sinha, learned counsel appearing for the petitioner has contended that the action of the State of Tripura in implementing its scheme w.e.f. 01.10.2017 instead of 01.01.2016 as adopted by UGC is arbitrary, contrary and inconsistent to the main scheme of the UGC. He further contended that the benefit which has been extended to the other employees in pursuance to the scheme adopted by the state of Tripura vide notification dated 25.06.2019 has not been extended to the petitioner herein and as such it is in violation of natural justice and discriminatory.

[11] This court is not inclined to appreciate the argument on the point of arbitrariness since the scheme as adopted by UGC categorically indicates that it "may be" extended and not "shall be" extended to the universities, colleges and

other higher educational institutions coming under the purview of state legislatures. If the option had been given to the state for exercising its discretion, it cannot be said that the state shall implement the scheme in toto. For the reasons mentioned in the scheme, the state government has indicated its compliance of the scheme and the commencement of its date i.e. 01.10.2017.

[12] The argument as advanced by Mr. Sinha, learned counsel for the petitioner regarding the discrimination faced by the employees of the state of Tamil Nadu and West Bengal, this court is not inclined to consider the argument on the point of discrimination faced by the employees in the other states. It is evident from the records that the Government of India has categorically mentioned in its scheme adopted by UGC on 01.01.2016 that the option to implement the scheme of UGC in each state depends on its administration. Therefore, this court feels that no arbitrariness is made out and the petitioner has failed to make out his case regarding discrimination.

[13] In view of the above discussion, this court has no hesitation to hold that the petitioner has failed to make out his case. Therefore, for the reasons as stated above, this writ petition stands dismissed being devoid of merit.

JUDGE