

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.162 OF 2023**

Sri Bhaskar Chakraborty and ors.
Vs.
The State of Tripura and ors.

HON'BLE THE CHIEF JUSTICE (ACTING)

Present:

For the Petitioner(s) : Mr. A. Bhowmik, Advocate.
Mr. S. Dey, Advocate.
For the Respondent(s) : Mr. D. Sharma, Addl. G.A.

24.03.2023

Order

The Petitioners approach this Court by way of filing this instant 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 petitioners No.4, 5 and 6 for the B.ED training undergone by the petitioners prior to the entry into the service as per Rule 13(1) (ii) of the Tripura State Civil Services (Revised Pay) Rules, 2009 and to grant the petitioners Nos.1, 2 and 3 an advance increment as per Rule 13(1) (v) of the Tripura State Civil Services(Revised Pay) Rules, 2009(hereinafter referred to as the Rules of 2009) having completed B.ED upon entry into service prior to 01.01.2009. The petitioners further seek 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 lump sum benefit to the petitioners in lieu of

the increment under Rule 13(1)(ii) and Rule (1)(v) of the Tripura State Civil Services (Revised Pay) Rules, 2009 on the ground that the petitioners were on fixed pay for a period of 5 years after entry into services. The petitioners further raised grievance regarding the violation of Rule 13 (1)(ii) and Rule 13(1)(v) of the Tripura State Civil Services (Revised Pay) Rules, 2009. Grant of training incentive in the form of advance increment was introduced by Tripura State Civil Services (Revised Pay) (First Amendment) Rules, 1999 notified vide notification dated 5th March, 1999 whereunder by virtue of Note-3, it was provided to grant one advance increment to teachers on successful completion of departmental training. The said system of granting one advance increment was replaced by lump sum benefit for training w.e.f. 01.01.2009 under the ROP Rules, 2009. Petitioners No.1, 2 and 3 humbly state that they completed the B.ED after entry into service but before 01.01.2009 and therefore is covered by Rule 13(1)(v) of the Rules of 2009 and as such the petitioners No.1, 2 and 3 are entitled to one increment as per the said Rule 13(1)(v) of the Rules of 2009. Petitioners No.4, 5 & 6 completed their B.ED. prior to entry into service and as such petitioners No.4, 5, and 6 craves leave of this Court to Highlight Rule(13) 1(ii) of the Tripura State Civil Services (Revised Pay) Rules, 2009 which provides that those teachers who had obtained B.ED/UBBT before entry into the service, 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 lump sum benefit and not the increment as provided under the rules. The said memorandum dated 6th July, 2011 is contrary to the Rules of 2009 and Rule 13(1) (ii) and Rule 13(1)(v) of the Rules of 2009 clearly provides for the grant of increment to teachers.

Hence the petitioners have filed this instant writ petition praying for the following reliefs:-

"i. Issue Notice upon the Respondents.

ii. Call for the Records.

iii. Issue Rules calling upon the respondents to show cause as to why the petitioners Nos.4, 5 & 6 shall not be given the benefit of the one increment as per Rule 13(1) (ii) of the Tripura State Civil Services (Revised Pay) Rules, 2009 along with arrears of financial benefit.

Issue Rule Calling upon the respondents to show cause as to why the petitioners Nos.1, 2 and 3 shall not be given the benefit of one increment as per Rule 13(1)(v) of the Tripura State Civil Services (Revised Pay) Rules, 2009 along with arrears of financial benefit .

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.

Issue Rule calling upon the Respondents to show cause as to why the petitioners No.4, 5 & 6 shall not be granted all financial benefits as per the Judgment and order dated 19th March, 2021 passed in WP(C)No.703 of 2019 by this Court as upheld by the learned Division Bench in W.A No.207 of 2021.

Issue Rule calling upon the Respondents to show cause as to why the Petitioners No.1, 2 and 3 shall not be granted all benefits in terms of the Judgment and Order dated 19.01.2022 passed in WP(C) No.602 of 2021 as upheld by the learned Division Bench vide judgment and order dated 06.12.2022 passed in W.A. No.309 of 2022 and other batch matters.

And after hearing the parties, be pleased to make the Rule absolute.

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

Heard Mr. A. Bhaumik, learned counsel appearing for the Petitioners as well as Mr. D. Sharma, learned Addl. G.A.

appearing for the respondents and perused the evidence on record.

Mr. A. Bhaumik, learned counsel appearing for the petitioners seeks to withdraw this writ petition in so far as petitioners No.4, 5 & 6 herein is concerned with a liberty to file it afresh. Accordingly, this writ petition is dismissed against petitioners No.4, 5 & 6 with the liberty to avail remedies under the law.

In so far as petitioners No.1, 2 & 3 of this present writ petition is concerned, it is agreed by both sides that the subject matter involved in this writ petition is covered by the Order passed by the Single Bench of this Court in WP(C) No.602 of 2021 dated 19.01.2022 i.e. *Annexure-27 to this Writ Petition*, which was subsequently confirmed vide order dated 06.12.2022 passed in *W.A. No.309 of 2021* and other batch matter i.e. *Annexure-28 to this Writ Petition* by the Division Bench of this Court.

In view of the same, this present writ petition is accordingly allowed for petitioners No.1, 2 & 3 in the terms stated herein above. Registry shall enclose the order copies of WP(C) No.602 of 2021 dated 19.01.2022 i.e. *Annexure-27 to this Writ Petition* and *W.A. No.309 of 2021* and other batch

matter i.e. *Annexure-28 to this Writ Petition along with this order.*

As a sequel stay if any stands vacated and pending application(s), if any, stands closed.

CHIEF JUSTICE (ACTING)

suhanjit

HIGH COURT OF TRIPURA



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