

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WA. No.122 of 2021

Trishna Singh Roy.

.....Appellant

_V_E_R_S_U_S_

The State of Tripura & Others.

.....Respondents

For Appellant(s)	:	Mr. K. Pandey, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, G.A.
		Mr. B. Majumder, Deputy SGI.
		Mr. S. Saha, Advocate.

Order dated 25th of January, 2023

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

Heard Mr. K. Pandey, learned counsel appearing for the appellant. Also heard Mr. D. Bhattacharjee, learned G.A. and Mr. B. Majumder, learned Deputy SGI assisted by Mr. S. Saha, learned counsel appearing for the respondents.

The appellant has prayed for the following reliefs:

- a. Admit this appeal.*
- b. Call for the records.*

AND

C. Be pleased to set aside and reverse the order dated 26.11.2020 passed by the Hon'ble Chief Justice (Mr. A. A. Kureshi) in WP(C) No.520 of 2020 and allow the writ petition and direct the respondents to release the family pension to the petitioner after counting the past service rendered by the mother of the petitioner as a School Mother w.e.f. 13.07.1990 till her death i.e. 03.10.2013."

The fact of the present case is that the appellant preferred a writ petition vide No. WP(C) No.520 of 2020 praying for directing the respondents to release the family pension to the petitioner after counting the past service rendered by the mother of the petitioner as School Mother w.e.f. 13.07.1990 till her death i.e. 03.10.2020. After hearing of both the parties the learned Single

Judge by an order dated 26.11.2020 dismissed the writ petition. Hence, the present appeal has been filed by the appellant for setting aside the order dated 26.11.2020 passed in WP(C) No.520 of 2020.

Mr. K. Pandey, learned counsel appearing for the appellant has submitted that the impugned order passed by the learned Single Judge suffers from non-application of mind and wrong appreciation of facts in issue and consequently, it suffers from misconception of fact and law. The learned Single Judge has failed to consider that the delay and laches will not apply when the writ petition is related with release of pensionary benefits and when a case is relating to continuing wrong, relief can always be granted even if there is long delay in seeking remedy with reference to the dates on which the continuing wrong commenced and the pensionary benefits is also a continuing wrong as a result the concept of delay and laches will not apply.

The learned Single Judge has failed to consider that the State respondents did not count the past service of the mother of the appellant which was rendered as School Mother on consolidated fixed pay and also denied the family pension to the appellant. The learned Single Judge has failed to consider that the mother of the appellant would have completed her pensionable service long before and even after rendering service for over 23 years the State respondents did not release the family pension to the appellant.

He has further contended that the mother of the appellant rendered no less important service than that of the others workers and other irregular employees under the State Government whose past services are counted towards pension and consequently if the contingent workers and similar other persons are entitled to pension on the basis of counting their service as contingent workers and irregular employees, the appellant should not be deprived of at least similar benefits inasmuch as such deprivation would amount to unfair discrimination.

He has further submitted that similarly situated persons like the appellant namely one Smti.Mamta Devi filed a writ petition vide No. WP(C) No.77 of 2015 for counting her past service which was rendered as School Mother and as per judgment of this Court dated 08.10.2015 total service of the appellant as School Mother on a consolidated fixed pay was counted for the purpose of pensionary benefits.

In view of above discussions and averments made by the learned counsel appearing for the parties, this Court without going into the merits of the case, is of the opinion that the impugned order passed by the learned Single Judge in WP(C) No.520 of 2020 dated 26.11.2020, needs to be set aside for the ends of justice and thus ordered. The respondents are directed to consider the matter afresh. Accordingly, liberty is given to the appellant to represent the matter before the concerned authority and on receipt of the same; the respondents shall compute the pensionary benefits with regard to the past service rendered by the deceased mother of the appellant, if she is entitled to. The entire exercise shall be completed within a period of three months from the date of receipt of the representation. The appellant shall assist the respondent authorities with regard to any such information in the event, if they so required. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

CHIEF JUSTICE (ACTING)

A. Ghosh