

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

WA. No.60 of 2020

1. Shri Parimal S. Debbarma, son of Shri Biswamani Debbarma, resident of Happy Valley Complex, Nandannagar, P.O. Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN-799006.
2. Shri Shyamal Kanti Deb, resident of Qtr. No.14/13, Malancanibas Government Qtr. Complex, P.O. Kunjaban, P.S. New Capital Complex, PIN-799006.

.....Appellants

-VERSUS-

1. The State of Tripura, represented by the Secretary to the Government of Tripura in the Finance Department, New Secretariat, P.O. Kunjaban, P.S. Capital Complex, Agartala, PIN-799006.
2. The Secretary, Department of Industries & Commerce, Government of Tripura, New Secretariat, P.O. Kunjaban, P.S. Capital Complex, Agartala, PIN-799006.
3. The Secretary to the Government of Tripura, in the Department of Finance, New Secretariat Complex, Agartala, PIN-799006.
4. The Industrial Development Corporation Ltd. (A Government of Tripura undertaking), through its Managing Director, Shilpa Nigam Bhavan, Khejurbagan, Kunjaban, P.O. Kunjaban, P.S. Capital Complex, Agartala, PIN-799006.
5. The Director, Industries & Commerce, Shilpa Nigam Bhavan, P.O. Kunjaban, P.S. Capital Complex, Agartala, PIN-799006.

..... Respondents

B_E_F_O_R_E

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

For Appellant(s)	:	Mr. T. Debbarma, Advocate.
For Respondent(s)	:	Mr. B. N. Majumder, Sr. Advocate. Mr. T. Chakraborty, Advocate. Mr. D. Sarma, Addl. G.A.
Whether fit for reporting	:	<i>YES/NO</i>

Judgment and order dated 15.03.2023

JUDGMENT & ORDER

Heard Mr. T. Debbarma, learned counsel appearing for the appellant. Also heard Mr. B. N. Majumder, learned senior counsel assisted by Mr. T. Chakraborty learned counsel and Mr. D. Sarma, learned Addl. G.A. appearing for the respondents.

[2] This appeal has been filed under Rule-2 of Chapter-V-A of the Guwahati High Court Rules against the judgment and order dated 05.03.2020 in WP(C) No.1039 of 2019 passed by this Court.

[3] The appellants have prayed for the following reliefs:

- i. Admit the appeal.
- ii. Call for the records.
- iii. Issue notice upon the respondents and after hearing the parties may set aside the judgment and order dated 05.03.2020 passed in WP(C) No.1039 of 2019 and may pass suitable order directing the respondent No.1 to re-consider the proposal of up-gradation of the pay scale of the posts of General Manager under TIDCL at par with the pay scale of the post of General Manager under TSECL.”

[4] The brief facts of the present case are that the appellants are the General Managers of Tripura Industrial Development Corporation Ltd. [for short TIDCL] under Government of Tripura and are agitating since long for improvement of their pay scale at par with the same post under TSECL (Tripura State Electricity Corporation Ltd. under Govt. of Tripura), as their pay scale is low compared to nature and workload involved in. the TIDCL too adjudging the works and functions involved with resolution of its Board of Directors moved proposal to finance department, government of Tripura for concurrence on the proposal of up-gradation of their scale at par with the same post under TSECL. But, while the Finance Department given concurrence on similar other proposal for up-gradation of pay scale of Company Secretary of TIDCL at par with other corporations, in case of General Manager advised to approach next pay commission.

[5] Being aggrieved, the appellants approached before this Court by filing writ petition being WP(C) No.54 of 2015. Though, this Court felt not to dictate the government to fix specific pay scale for particular employees, passed direction upon the Finance Department, Govt. of Tripura to consider the issue within three months with observation that, the resolution taken by the Board of Directors is rational and with the intention to achieve a definite objects and purpose which will further boost to the officers to serve institutions. This Court also made observation that the principle of equality should be kept in mind by decision making authority. Though, thereupon, in time the Finance Department issued speaking order, turned down the proposal of TIDC based on their two own observations that there are vast difference in prescribed required qualification and experience for the post in TIDCL vis-a-vis TSECL and nature of duties performed and workload involved too not comparable.

[6] Being aggrieved, the appellants approached before this Court further by flinging another writ petition being WP(C) No.1039 of 2019 and the same was disposed of with an observation that there is vast difference in education and experience qualification prescribed as well as there is nothing on record to hold that, the nature of duties performed and the workload involved is comparable.

[7] But, though there is difference in education and experience qualifications, the same prescribed under TIDCL in no way can be treated as inferior than the same prescribed under TSECL. Secondly, TIDCL as employer, being best judge of the nature and workload involved with any of its posts, adjudged the same for the posts of general manager which is in record in the minutes of its Board of Directors and comparing the same with the same post under TSECL proposed the un-gradation of pay scale of its post General Manager at par with the pay scale of the same post under TSECL. Further, Finance Department has discriminated in turning down the proposal of TIDCL of up-gradation of pay scale of General Manager, while concurred the proposal for up-gradation of pay scale of Company Secretary at par with other corporations. Hence, the present appeal has been filed by the appellants.

[8] Mr. T. Debbarma, learned counsel appearing for the appellants has submitted though there is difference in educational and experience qualifications prescribed for both the posts, the educational and experience qualifications prescribed for the posts of general manager under TIDCL cannot be considered inferior than the educational and experience qualifications prescribed for the post of General Manager under TSECL.

[9] He has further submitted that the nature of duties performed and the workload involved for the posts of General Manager under TIDCL is comparable with the nature of duties and workload of the general manager under TSECL. Both the posts are second line of management in concerned organizations, immediately below post of Head of Organizations. Further, the nature of duties and workload involved of a post are best adjudged by the employer and in the instant case the TIDCL adjudging the same came to conclusion that the present pay scale of its general managers are lower and it needed to be made at par with the present pay scale of general manager under TSECL which is no record in the minutes of the 165th meeting of its Board of Directors.

[10] It has also not argued due to bona fide mistake that while for up-gradation of the scale of pay of post of Company Secretary under TIDCL at par with the post of company secretary under different corporations has been concurred by the Finance Department, the up-gradation of the pay scale of the posts of General Manager and TIDCL at par with the pay scale of General Manager under TSECL has not been concurred by the Finance Department, Govt. of Tripura.

[11] In view of the above discussions, we are of the opinion that the appellants herein has sought for equality in pay scale at par employees of the Tripura State Electricity Corporation Ltd. [for short TSECL]. Since, the appellants worked as Engineer under the Industrial Development Corporation and they have governed by their own service regulations and keeping eyes wide open with regard to the pay structure having worked for so many years, now it is not open for the appellants to turn back and say that they have

deprived of their pay scale comparing with the pay scale of employees of the TSECL as the employees of the TSECL getting more salary comparing to the appellants. This argument cannot be accepted since; each organization is governed by its own terms and conditions and own pay structure and the same cannot be comparable with other organizations.

[12] In the light of the above observations, this Court is of the opinion that the reliefs as sought for by the appellants in the present appeal are unreasonable. Accordingly, the present appeal stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

CHIEF JUSTICE (ACTING)

A. Ghosh

