

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

IA No.02 of 2023 IN Review Pet. No.34 of 2023

IA No.02 of 2023 IN Review Pet. No.35 of 2023

IA No.02 of 2023 IN Review Pet. No.36 of 2023

IN IA No.02 of 2023 IN Review Pet. No.34 of 2023

The Managing Director

..... Applicant(s)

V E R S U S

Sri Sudhandshu Kr. Ghosh and others

.....Respondent(s)

IN IA No.02 of 2023 IN Review Pet. No.35 of 2023

The Managing Director

..... Applicant(s)

V E R S U S

Sri Phani Bhusan Roy and others

.....Respondent(s)

IN IA No.02 of 2023 IN Review Pet. No.36 of 2023

The Managing Director

..... Applicant(s)

V E R S U S

Sri Amar Chand Saha and others

.....Respondent(s)

For Applicant(s) : Mr. D. Bhattacharya, G.A.,
Ms. N.C. Saha, Advocate.

For Respondent(s) : Mr. Kawsik Nath, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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19/07/2023

Review Pet. No.34 of 2023, Review Pet. No.35 of 2023 and Review Pet. No.36 of 2023 all arise out of the common impugned judgment dated 20.01.2022 passed in 5(five) writ petitions including WP(C) No.309 of 2021, WP(C) No.306 of 2021 and WP(C) No.310 of 2021 from which the present review petitions arise. All these review petitions suffer from a delay of 347 days for condonation of which IA No.02 of 2023 has been preferred in all the petitions. Therefore, all these review petitions and interlocutory applications are being taken up together.

[2] At the outset, learned counsel for the review petitioner Mr. Debalay Bhattacharya points out to the order dated 24.04.2023 passed by this Court in Review Pet. No.04 of 2022 in case of State of Tripura and others versus Shri Bikash Roy which arose from WP(C) No.617 of 2021 dated 02.12.2021 the operative portion of which is of the same effect as that of the impugned judgment in the present review petitions. It is submitted that the petitioner being the Managing Director of the Tripura Horticulture Corporation has sought review of the impugned judgment on the same grounds as are incorporated in Review Pet. No.04 of 2022. It is submitted that this Court after hearing learned counsel for the same

review petitioners and learned counsel for the writ petitioners Mr. P. Roy Barman, proceeded to clarify the purport of the order passed therein. It is submitted that the impugned judgment relies upon certain decisions which have also been taken note of in the order passed in Review Petition No.04 of 2022. The submission of learned counsel for the writ petitioners has also been taken note of that the respondents have only been directed by the impugned judgment to take a decision in view of the discussions and observations made in the light of the government circular issued from time to time within a stipulated period. This Court had however refused to review the impugned order therein as no apparent error on the face of record was found. In such circumstances, the review petitioners also seek an observation of this Court clarifying the purport of the impugned order on similar lines as observed at paragraph 6 of the order dated 24.04.2023 passed in Review Pet. No.04 of 2023.

[3] Learned counsel for the review petitioners submits that since the impugned judgment has been clarified by this Court in the Review Pet. No.04 of 2022, the delay in filing the review petitions may be condoned as all these writ petitioners stand on same footing and the stand of the review petitioners in all these petitions are also the same.

[4] Learned counsel for the writ petitioner Mr. Kawsik Nath does not dispute that by the judgment dated 24.04.2023 passed in Review

Pet. No.04 of 2023 arising out of WP(C) No.617 of 2021, this Court has been pleased to clarify the purport of the judgment passed by the writ court and that the present impugned directions are also of same nature as in WP(C)617/2021. Learned counsel for the respondents are thus not in a position to countenance the submission of learned counsel for the review petitioner on those lines as regards the prayer for condonation of delay in preferring the instant review petitions.

[5] I have considered the submissions of learned counsel for the parties. This Court has by order dated 24.04.2023 disposed of the Review Pet. No.04 of 2022 by clarifying the purport of the judgment and order dated 02.12.2021 passed in WP(C) No.617 of 2021. On the same line, 5 (five) writ petitions including WP(C) No.309 of 2021, WP(C) No.306 of 2021 and WP(C) No.310 of 2021 from which the instant review petitions arise were disposed of by the writ court. The operative part of the impugned order at para 6 is quoted hereunder:

“6. Consequently, the writ petitions are allowed. The respondents are directed to release the full amount of gratuity and the leave encashment to the petitioners within a period of 3(three) months from today with interest @ 7% per annum after one month from the date of their superannuation. It is made clear that at the time of payment of gratuity if any sum has already been paid that amount shall be deducted from the entire gratuity entitled to the petitioners. However, this Court also makes it clear that the petitioners herein shall also abide by the outcome of the review applications said to have been filed by the State in the aforesaid two cases. This Court further makes it clear that if the petitioners so inclined, they may also intervene in the said review applications.”

[6] Therefore, prayer for condonation of delay made through IA No.02 of 2023 in all the individual review petitions are allowed to ensure parity of treatment vis-à-vis all the writ petitioners and the respondents therein/review petitioner herein.

[7] Further, for the same reasons the instant review petitions are also disposed of on the same lines as Review Pet. No.04 of 2022 dated 24.04.2023, the operative part of which is quoted hereunder :

“[6] I have considered the submissions of learned counsel for the parties, taken note of the pleadings placed from record and also gone through the writ records. I have also perused the impugned judgment. At the outset, it needs to be observed that review jurisdiction is exercised to correct the mistake of the Court and not the mistake of the parties. The instant stand taken by the petitioner-State that the writ petitioner was not a regular employee rather an ad hoc employee was never taken before the Writ Court. The respondent No. 3 (Managing Director, Tripura Horticulture Corporation Ltd.) in the writ petition has on the other hand taken a plea of resource crunch in meeting the expenditure towards post retirement benefits of the employees of the Corporation. Moreover, the learned Writ Court has only directed the respondent-authorities to take an appropriate decision in the light of the Government circulars and the discussions and observations made therein within a stipulated period. As such, this Court does not find any grounds of review made out to interfere in the impugned judgment. It further appears that the impugned judgment was passed on the basis of earlier directions passed by the Writ Court in WP(C) No. 588 of 2017 dated 8th August 2017 and also in WP(C) No.224 of 2018 in case of *Smt. Niyati Saha* (supra) decided on 18th March, 2019 which decisions have attained finality. As such, no case of review is made out.

[7] The instant petition is dismissed. Pending application(s), if any, also stands disposed of.”

[8] Let it be made clear that this Court has not made any observation on merits of the case of the parties or the decision required to be taken by the review petitioner in compliance of the judgment of the

Writ Court. The review petitions are also accordingly disposed of in similar manner.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH) CJ

HIGH COURT OF TRIPURA



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