

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.349 of 2023

Shri Subrata Barman and 5 Others

.....Petitioners

VERSUS

The State of Tripura & 3 Others

.....Respondents

For Petitioner(s)	:	Mr. Somik Deb, Sr. Advocate. Ms. R. Chakraborty, Advocate.
For Respondent(s)	:	Mr. M. Debbarma, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

02/06/2023

Heard Mr. Somik Deb, learned senior counsel assisted by Ms. R. Chakraborty, learned counsel appearing for the petitioners also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

This petition has been filed under Article-226 of the Constitution of India for quashing the impugned offers of appointments insofar as the same grant a fixed monthly pay to the petitioners and negating the seniority of the past services, rendered by the petitioners, regular pay scale, pay protection i.e. counting the past services for the purpose of fixation of pay leave encashment, leave salary, gratuity and all other admissible service benefits, including pension, defiance of the direction, contained in the judgment and order dated 07.05.2014 as well as the judgment and order and for setting aside the impugned memorandum dated 12.11.2021 insofar as the same negates the claim of the petitioners for grant of MACP-1 after completion of 10 years.

The petitioners have prayed for the following reliefs:

- i. Issue rule calling upon the responders and each one of them to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for directing them, to transmit the records, appertaining to this writ petition, lying with them, for rendering substantive and conscionable justice to the petitioners, and for quashing/setting aside the impugned offers of appointments (Annexure-7 supra) insofar as the same grant a fixed monthly pay to the petitioners, and negating the seniority of the past services, rendered by the petitioners regular pay scale, pay protection, i.e.

counting the past services for the purpose of fixation of pay, leave encashment, leave salary, gratuity and all other admissible service benefits, including pension, in defiance of the directions, contained in the judgment and order dated 07.05.2014 (referred to supra) as well as the judgment and order (Annexure-11 supra), and for quashing/setting aside the impugned memorandum dated 12.11.2021 (Annexure-12 supra), insofar as the same negates the claim of the petitioners, for grant of MACP-1, after completion of 10 years of service.

ii. Issue rule calling upon the respondents and each one of them to show cause as to why a writ of mandamus and/or in the nature thereof, shall not be issued, for mandating/directing them, to revoke/rescind the impugned memorandum dated 12.11.2021 (Annexure-12 supra), insofar as the same negates the claim of the petitioners for grant of MACP-1, after completion of 10 years of service, and further for mandating/directing them, to grant the benefit of MACP-1 on completion of 10 years of service.

iii. Call for the records appertaining to this writ petition.

iv. Costs of and incidental to this writ petition.

v. After hearing the parties, be pleased to make the rule absolute in terms of i & ii above.”

The case of the petitioners is that pursuant to the issuance of the advertisements, the petitioners became aspirants for appointments to the post of Graduate Teacher, under the Education Department, Govt. of Tripura and thereupon, submitted the requisite applications. Thereafter, a selection process was initiated and the petitioners along with others were duly selected for the posts of Graduate Teacher under the Directorate of School Education, Govt. of Tripura. On completion of 5 years of service on fixed monthly pay, the Director of school Education, Govt. of Tripura issued several memorandum, thereby according to the benefit of regular pay scale, to various post Graduate Teachers and Graduate Teachers including the petitioners, under the Education (School) Department, Govt. of Tripura.

The Directorate of Secondary Education, Govt. of Tripura issued a memorandum dated 23.12.2017 inter alia noting that the Hon’ble Supreme Court of India vide order dated 29.03.2017 in SLP No. 18993-19049/2014 has affirmed the order of this Court dated 07.05.2014, setting aside the selection of teachers and amongst others directed that the fresh selection process to be

completed on or before 31.12.2017 and further noting that the tenure of the incumbents will come to an end on 31.12.2017 and that their appointments would only be for 6 months on ad-hoc basis, on such terms as the State Govt. may impose.

The petitioners became aspirants, to appear in the selection test for appointments to the posts of post Graduate Teacher, the petitioners applied for issuance of No Objection Certificates pursuant where to the Director of Secondary Education, Govt. of Tripura issued various memorandum, thereby accorded NOC in favour of the petitioners, permitting them, to appear in the STGT/STPGT Examination, 2017 to be conducted by the Teachers Recruitment Board, Tripura (TRBT). Vide a memorandum dated 31.03.2020, the Addl. Secretary, Education (School) Department, noted that the services of Post Graduate Teachers and appointed in 2010 and under Graduate Teachers, appointed in 2014 had come to an end on 31.12.2017 as per order of this Court passed in WP(C) No.51/2014 of **Tanmoy Nath and Others** which was affirmed by the Apex Court vide order dated 29.03.2017 in SLP(C) No.18993-19049/2014.

The Director of Secondary Education, Govt. of Tripura issued various memorandum thereby appointing the petitioners to the posts of Post Graduate Teachers, Education Department, Govt. of Tripura on a monthly fixed pay basis of Rs.22,785/-, inter alia praying for reckoning the past services, for determining the seniority, regular pay scale, pay protection i.e. counting the past services for the purpose of fixation of pay, and all other admissible service benefit, including pension, the petitioners had submitted representations. On 12.11.2021 the Addl. Director, Directorate of Secondary Education, Govt. of Tripura issued a memorandum whereby, the claims of the petitioners, as to the benefits of MACP-1 on completion of 10 years of service stood repulsed.

Hence, the present petition has been preferred by the petitioners before this Court for redress.

In view of above, without expressing any opinion on merits, the present petition stands disposed in terms of the order passed by this Court on 11.05.2023 in WP(C) No.260 of 2022. Accordingly, this Court is of the considered opinion that ends of justice would be met if the matter is remitted back to the concerned respondents for adjudication in accordance with law as expeditiously as possible, preferably within a period of three months from the date of receipt of the copy of this order. Consequently, the memorandum which is the subject matter in this petition, stands quashed. The benefits be extended to the petitioners for maintaining the equity, if they are entitled to.

In the result, the present petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

Dipak



सत्यमेव जयते

DIPAK DAS

Digitally signed by DIPAK
DAS
Date: 2023.06.02 15:52:31
+05'30'