

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.381 of 2023

For Petitioner(s)	:	Mr. D. C. Saha, Advocate. Mr. T. K. Chowdhury, Advocate.
For Respondent(s)	:	Ms. S. Chakraborty, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

27/06/2023

Heard Mr. D. C. Saha and Mr. T. K. Chowdhury, learned counsel appearing for the petitioner and Ms. S. Chakraborty, learned counsel appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution of India for declaring the memorandum dated 16.07.2021 as illegal and arbitrary as regard to the seniority of the petitioner and the memorandum dated 05.08.2017 as illegal in respect of the petitioner as regard to the regularization of service allowed to the petitioner w.e.f. 01.07.2008 in place of 01.01.2007 depriving the petitioner without showing any cause. Further declaring the memorandum dated 06.11.2013 which has been issued in contravention of principle enunciated in the memorandum dated 09.06.2009 as illegal in respect of the petitioner as regard to the prospective effect of regularization of the petitioner and also directing the respondents to regularize the service of the petitioner to the post of Helper Grade-II w.e.f. 01.01.2007 as per principle enunciated in the memorandum dated 09.06.2009.

The petitioner has prayed for the following reliefs:

“a. Admit the writ petition.

b. Call for the records.

c. Issue a writ in the nature of certiorari calling upon the respondents to show cause as to why the memorandum No. F.6(1)-TSECL(PSU)/Estt.-I/2021/Pt-I/20126-174 dated 16.07.2021 should not be declared as illegal and arbitrary in respect of the seniority of the petitioner.

d. Issue writ of certiorari calling upon the respondents to show cause as to why the memorandum N. F.2(1)-TSECL/PSU/Estt.I/2015/21700-55 dated 05.08.2017 should not be declared as illegal and arbitrary as regard to the regularization of service of petitioner with effect from 01.07.2008 in place of 01.01.2007 depriving the petitioner as contingent worker without showing any cause.

e. Issue writ in the nature of certiorari calling upon the respondents to show cause as to why the memorandum No. F.6(151)-TSECL/Corp-Office/2015/32217-311 dated 06.11.2013 should not be declared as illegal and arbitrary in respect of petitioner as regard to the date of effect of regularization of the petitioner.

f. Issue writ in the nature of mandamus calling upon the respondents to show cause as to why the service of petitioner should not be regularized with effect from 01.01.2007 from daily rated worker to the post of Helper Grade-II in abiding the principle enunciated by the government vide memorandum No. F.19(2)-FIN(G)/08(Part)/275 dated 09.06.2009 alike similarly situated persons.

g. Issue writ in the nature of mandamus calling upon the respondents to show cause as to why the respondents should not act and be computed her service to the post of Helper Grade-II with effect from 01.01.2007 and to defray pay and allowances to the petitioner alike similarly situated persons even juniors to the petitioner.”

The case of the petitioner is that the petitioner engaged as Daily Rated Worker by Power Department, Govt. of Tripura on 10.04.1988. After creation of TSECL her service transferred on deputation to said corporation with assurance that her service condition shall be governed by rules, regulations by which she was governed as on 31.12.2004. Thereafter, on 06.11.2013 TSECL has given letter of regularization to the petitioner along with others regularizing her service with a direction that she should join on or before 15th September, 2013 to her place of posting. Accordingly, she joined to her new assignment on 08.11.2013. But, on 05.08.2017, her service had been regularized with retrospectively with effect from 01.07.2008 in place of 01.01.2007 in contravention of principle enunciated in memo dated 09.06.2009.

On 30.07.2021, after scrutiny of her seniority in their seniority list she came to learn that retrospective effect of her regularization w.e.f. 01.07.2008 had been allowed denying her entitlement w.e.f. 01.01.2007 depriving the petitioner though her name has been incorporated at serial No.66

of list-2 enclosed with memo dated 09.06.2009 and as such she is entitled to effect of her regularization w.e.f. 01.01.2007.

Moreover, on 08.08.2019, the petitioner allowed 50% of her past service as DRW/Contingent etc. workers showing her date of engagement as 01.04.1988. On 16.07.2021 in the seniority list her name has been shown at Sl. No.170 showing her juniors as her senior. In spite of her representations the respondents arbitrarily deprived her from the financial and service benefits along with her appropriate seniority which has been allowed to similarly situated persons even juniors to the petitioner depriving the petitioner.

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

In view of above, without expressing any opinion on merits, the present petition stands disposed of directing the respondents to consider the representation dated 30.07.2021 filed by the petitioner before the respondents in accordance with law within a period of three months from the date of receipt of the copy of this order.

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

JUDGE

A. Ghosh

ANJAN
GHOSH

Digitally signed by
ANJAN GHOSH
Date: 2023.06.28
17:07:26 +05'30'