

HIGH COURT OF TRIPURA
AGARTALA
WP(C) 464 OF 2022

Sri Amarjyoti Datta, 56 years, S/o Lt. Sudhendu Datta,
Presently posted as MRCBC, Office of the Senior Manager,
Kadamtala Electrical Sub-Division, Dharmanagar,
North Tripura, resident of Village/Ward No.5, Sukanta Sarani,
Thana Road, Dharmanagar, P.O. and P.S. Dharmanagar,
District-North Tripura, PIN 799250

... Petitioner.

Vrs.

1. **The State of Tripura**, represented by the Principal Secretary,
Department of Power, New Secretariat Complex, Khejur Bagan,
P.O. Kunjaban, P.S. New Capital Complex, District-West Tripura,
PIN-799006.
2. **The Principal Secretary**, Department of Finance,
New Secretariat Complex, Khejur Bagan, P.O. Kunjaban,
P.S. New Capital Complex, District-West Tripura, PIN-799006.
3. **The Tripura State Electricity Corporation Limited**, (A Government of
Tripura Enterprise), represented by its Chairman, Bidyut Bhavan,
North Banamalipur, Agartala, having its Head Office at Bidyut Bhavan,
North Banamalipur, Agartala, District-West Tripura, PIN 799001.
4. **The Chairman**, Tripura State Electricity Corporation Limited,
Bidyut Bhavan, North Banamalipur, Agartala, District-West Tripura,
Pin-799001.(The Principal Secretary, Department of Power,
New Secretariat Complex, Khejur Bagan, P.O. Kunjaban,
P.S. New Capital Complex, District-West Tripura, PIN-799006).
5. **The Managing Director**, Tripura State Electricity Corporation Limited,
Tripura Bidyut Bhavan, North Banamalipur, Agartala,
District-West Tripura, PIN-799001.

... Respondents.

Present:

For the petitioner(s) : Mr. T.K.Chowdhury, Advocate.

For the respondent(s) : Mr. Kohinoor N. Bhattacharjee,
Mr. N. Majumder, Advocate.

Date of hearing and date of delivery of judgment & Order: **18.07.2023**

Whether fit for reporting : No

HON'BLE MR.JUSTICE ARINDAM LODH

Judgment & Order (oral)

Heard Mr. T.K.Chowdhury, learned counsel appearing for the petitioner. Also heard Mr. Kohinoor N. Bhattacharjee, learned counsel appearing for the State-respondents and Mr. N. Majumder, learned counsel appearing for the respondents-TSECL.

2. By way of filing the present writ petition, the petitioner has prayed for following reliefs:

- (a) *“Admit the Writ Petition;*
- (b) *Call for the records;*
- (c) *Issue Writ in the nature of Certiorari calling upon Respondents to show cause as to why the Memorandum No.F.6(151)-TSECL/05/P-2/36286-420 dated 27.12.2010 as illegal and arbitrary as regards to the date of effect of regularization of the petitioner;*
- (d) *Issue Writ in the nature of Certiorari calling upon the Respondents to show cause as to why the Memorandum No.F.6(151)-TSECL/05/P-2/9392-532 dated 02.04.2011 as illegal and arbitrary as regards to the date of effect of regularization of the petitioner;*
- (e) *Issue Writ in the nature of Mandamus calling upon the Respondents to show cause as to why the date of engagement of the petitioner should not be treated as 17.04.1998 in place of wrong date shown as 01.12.1999 and should not be regularized with retrospective effect and paid his pay and allowances with effect from 17.04.2008 as per Memo. No.F.10(2)-FIN(G)/2008(Part)/275 dated 09.06.2009;*
- (f) *Issue Writ in the nature of mandamus calling upon the Respondents to show cause as to why the petitioner should not be regularized with retrospective effect and paid his pay allowances with effect from 17.04.2008 as per principle of Memo. No.F.(1)-TSECL/PSU/Estt/2015/21700-55 dated 05.08.2017 alike similarly situated person's even juniors to the petitioner;*
- (g) *Issue Writ in the nature of Mandamus calling upon the Respondents to show cause as to why the petitioner should not be provided with the calculation of 50% previous /past service count of towards pension benefits with effect from 17.04.1998 alike similarly situated persons even juniors to the petitioner, as per Memorandum No.F.1(2)-*

TSECL(PSU)/Estt.-I/2015/25787-841 dated 08.08.2019 as extended to other similar DRWs/Contingent/Casual workers.

(h) Pass any other relief or reliefs as Your Lordship may deem fit and proper.”

3. Briefly stated, the petitioner was initially engaged as contingent worker under the respondents. The Govt. of Tripura had introduced some schemes for regularization of irregularly appointed persons in compliance with the judgment passed by the Constitution Bench of Hon’ble Supreme Court in *Secretary, State of Karnataka Vrs. Uma Devi*, reported in (2006) 4 SCC 1. In pursuance of those schemes, the Respondent-Corporation had issued a Memorandum dated 09.06.2009 wherein under Clause 4 it was decided that – “*Out of remaining 372 names of rectified data base, total 164 workers appears completed 10 years of service as on 31.03.2008 and may be considered for regularization with effect from 01.07.2008.*”

4. In view of this Clause, under the said Memorandum, the petitioner’s name was included in a list for the purpose of regularization. The service of the petitioner was regularized in the year 2011 as Group-C under the respondents. Thereafter, he submitted repeated representations praying for treating him to be regularized w.e.f. 01.07.2008 along with other consequential benefits like seniority, pension, etc. Those representations were not considered by the respondents. All on a sudden, in the year 2022, the petitioner has filed the present writ petition claiming the above reliefs.

5. Mr. Chowdhury, learned counsel appearing for the petitioner has submitted that the petitioner has the legal right to claim his regularization w.e.f. 01.07.2008, in terms of the Memorandum dated 09.06.2009, issued by the respondents with other consequential benefits there from.

6. On the other hand, Mr. N. Majumder, learned counsel appearing for the respondents-TSECL has submitted that all the schemes for regularization as formulated by the Govt. of Tripura and adopted by the Corporation, have been repealed in the year 2018.

7. I have considered the submissions of learned counsel appearing for the parties. The sole issue to be considered in the instant case is that whether the writ-petitioner is deemed to be regularized w.e.f. 01.07.2008.

8. My answer is in negative. In my opinion, each and every words mentioned in Clause 4 should be given due importance. The use of the word “*may*” should not be taken into consideration as mandatory. The words “*be considered*” make the decision of the framers of this Memorandum as directory and not mandatory. No legal right has been accrued within the words mentioned in Clause 4, particularly, the words “*may*” and “*be considered*”. Furthermore, the service of the petitioner was regularized in the year 2011 and in my opinion, the writ-petitioner should come up before this court with the claim he has made in this writ petition within a reasonable period of time i.e. it should be within two years from the date of his regularization. Now, it is apparent that the petitioner approached this court with the aforesaid claims in the year 2022 i.e. after a lapse of a period of more than 11 years, which makes this writ petition as absurdly barred by the doctrine of delay and laches.

9. The petitioner has claimed his seniority in the instant writ petition. The seniority position of all the contingent workers whose services had been regularized has already been settled by the respondents. After such lapse of considerable period of time, it is the settled proposition of law that settled position of seniority should not be unsettled.

10. I have taken into consideration the submission put forth by learned counsel for the petitioner that the petitioner had submitted repeated representations claiming the reliefs as claimed in the writ petition. Needless to say, that by now, it is well-settled that repeated representations will not give a fresh cause of action to file writ petition.

11. In the light of above well-settled principles, the present writ petition does not merit for consideration. However, I request the Respondents-Corporation to consider the date of regularization of the service of the petitioner. It is for the respondents to make a decision whether the service of the petitioner can be treated to be regularized w.e.f. 01.07.2008. In this respect, the Respondents-Corporation is directed to take a decision and communicate the same to the petitioner with a speaking order.

12. With these observations and directions, the instant petition stands disposed.

JUDGE