

**HIGH COURT OF TRIPURA  
AGARTALA  
WP(C) NO.417 OF 2023**

**Dr. Chandan Debnath,**

S/o. Late Chitta Ranjan Debnath,  
Resident of Dhaleswar Road No.1, Agartala,  
P.O.- Dhaleswar Road No.1, Agartala,  
P.O.- Dhaleswar, P.S.- East Agartala,  
District- West Tripura(Age-60).

..... **Petitioner(s)**

Vs.

**1. The State of Tripura,**

(To be represented by) the Secretary, Health & Family Welfare  
Department, Government of Tripura, New Secretariat Building,  
New Capital Complex, Kunjaban, P.S.- New Capital Complex,  
Agartala, West Tripura, PIN-799010.

**2. The Additional Secretary,** Health & Family Welfare  
Department, Government of Tripura, New Secretariat Building,  
New Capital Complex, Kunjaban P.S.- New Capital Complex  
Agartala, West Tripura, PIN-799010.

**3. The Director of Health Services,**  
Health Directorate Building, (2<sup>nd</sup> Floor), Pandit Nehru Complex,  
Gorkhabasti, Agartala, West Tripura, Pin-799001.

**4. The Executive Secretary,**  
National Health Mission, State Health & Family Welfare Society,  
Government of Tripura, Palace Compound P.S.- West Agartala,  
Agartala, Sub-Division- Sadar, District- Tripura, Pin-799001.

**5. The Mission Director,**  
National Health Mission, State & Family Health Society,  
Government of Tripura, Palace Compound, P.S.- West Agartala,  
Agartala, Sub- Divison, Sadar, District- Tripura, Pin-799001.

..... **Respondent(s)**

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| For the Petitioner(s) | : Mr. P. Roy Barman, Sr. Advocate.<br>Mr. K. Nath, Advocate.<br>Mr. D. Paul, Advocate. |
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| For the Respondent(s) | : Mr. K. De, Addl. G.A. |
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| Date of hearing | : 23.08.2023 |
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| Date of delivery of<br>Judgment & Order | : 28.08.2023. |
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Whether fit for reporting : YES.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**JUDGMENT AND ORDER**

This present writ petition has been filed before this Court under Articles 226 and 14 of the Constitution of India for quashing and canceling the impugned letter dated 23.06.2023 issued vide F.No.(5-423)-FWPM/SHFWS/2020, by the Missions Director, National Health Mission, Tripura and directing the respondents to reinstate the petitioner in his service as Medical Officer(Ayush).

2. The brief fact of this case is vide memorandum dated 10.04.2007, issued by the Mission Director, NRHM & Addl. Secretary (HFW), the petitioner was offered the post of Medical Officer(Homeopath) under the State Health and Family Welfare Society, Tripura, on a contractual basis for a period of 11(eleven) months from the date of joining. The petitioner accepted the offer and thereafter, joined as a Medical Officer(Homoeopath) under State Health and Family Welfare Society Tripura. Since then, the petitioner has been serving his duties and responsibilities. By the Order vide No.F.No.1(27)-AYUSH/SHFWS/NHM/2023/3713-3771 dated 06.05.2023, issued by the Mission Director, National Health Mission, Tripura, it was conveyed to the petitioner that, his appointment will cease to be in force after 1(one) month from the date of issuance of the said Memorandum/Order, dated

06.05.2023, on the ground that the petitioner has already crossed 60 years.

3. Aggrieved by such order, the petitioner submitted a representation dated 29.05.2023 to the Mission Director, National Health Mission, Tripura. In the aforesaid representation, the petitioner stated that he is physically and mentally fit and he is entitled to be allowed in service up to the age of 65 years like other Medical Officers of NHM.

4. The petitioner also filed a writ petition before this Hon'ble Court challenging the memorandum dated 06.05.2023 seeking redressal of his grievance against the discontinuation of his service on the ground of attaining 60 years of age. This Court vide its order dated 02.06.2023 passed in WP(C) No.352 of 2023 directed the respondents to consider the representation dated 29.05.2023 of the petitioner within one week from the date of receipt of the copy of that order, giving liberty to the petitioner to furnish relevant Judgments before the respondents in support of his grievance. Accordingly, the petitioner submitted representation dated 03.06.2023 to the respondents along with relevant Judgments of the Hon'ble Supreme Court and various High Court, in support of his claim. Thereafter the respondents vide the impugned letter dated 23.06.2023 rejected the plea of the petitioner for reinstatement in contractual service.

5. Hence the petitioner has filed the instant writ petition before this Court praying for quashing the impugned letter dated

23.06.2023 and for reinstating the petitioner in service as Medical Officer(Ayush).

6. Mr. Roy Barman, learned Sr. counsel assisted by Mr. D. Paul, learned counsel appearing for the petitioner submits that the Hon'ble Supreme Court of India in its Judgment passed in ***North Delhi Municipal Corporation Vs. Ram Naresh Sharma and Ors.***, dated **03.08.2021** dealt with a similar issue of discrimination regarding the age of superannuation between Allopathic Doctors and Ayurvedic/Ayush Doctors. The Hon'ble Apex Court held that the classification between the Ayush Doctors and Doctors under CHS(Allopathic Doctors) is discriminatory and unreasonable since Doctors under both segments are performing the same function of treating and healing their patients. The only difference is that Ayush Doctors use indigenous systems of medicine like Ayurveda, Unani, etc and CHS Doctors use Allopathy for tending to their patients. Though vide order dated 02.06.2023, this Court gave liberty to the petitioner to furnish relevant Judgments before the respondents in support of his grievance, but in spite of submission of this above-mentioned Hon'ble Apex Court Judgment in his favour, the same was not considered. There is total non-appliance of mind and an arbitrary way, the representation as submitted by the petitioner has been rejected by the respondents.

7. On the other hand, Mr. K. De, learned Addl. G.A., appearing for the State-respondents submits that the petitioner is

not a regular employee and re-appointment is not a matter of right, and due to this reason, his representation was disposed of.

8. Heard both sides and perused the evidence on record.

9. The Hon'ble Supreme Court Judgment as passed in **North Delhi Municipal Corporation(supra)** pertains to cases of Doctors who are permanently employed. Hence this is not applicable to the facts of this case. Here the petitioner is employed purely on a contractual basis and their service is in reference to the notification issued by the Under Secretary of the Government of Tripura on behalf of the Governor of Tripura vide No.F.3(484)HFW/2026 dated 22.01.2018. The said notification is not under challenge and no malifide and legal infirmities have been pointed out except arguments are made on the point of discrimination. Here Article 14 of the Constitution of India will only apply to the class of people amongst themselves. So, here the petitioner does not fall within the parameters of a permanent employee, he is on a contractual basis guided by some other guideline and the said guideline of the memorandum is not under challenge.

10. In view of the above discussion and circumstances, this present writ petition stands dismissed. As a sequel stay if any stands vacated. Pending application(s), if any also stands closed.

**JUDGE**

suhanjit

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SUHANJIT  
SINGHA

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