

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_
WP(C) No.486 of 2022

Smti. Dipali Rani Datta (Deb)

.....Petitioner

V_E_R_S_U_S

The State of Tripura & 8 Others.

.....Respondents

For Petitioner(s)	:	Mr. K. Pandey, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI.
		Mr. K. De, Addl. G.A.
		Mr. S. Saha, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
_F_I_N_A_L_O_R_D_E_R_

28/04/2023

Heard Mr. K. Pandey, learned counsel appearing for the petitioner. Also heard Mr. B. Majumder, learned Deputy SGI along with Mr. K. De, learned Addl. G.A. assisted by Mr. S. Saha, appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution of India for setting aside the letters dated 04.02.2022 and 22.03.2022 issued by the respondent No.9 i.e. in favour of the respondent No.7 and the letter dated 06.05.2022 issued by the respondent No.7 whereby the petitioner was informed that she is liable to pay excess amount of Rs.1,22,100/- paid to her by the respondents as gratuity. Further directing the respondents to count the past service of the petitioner which was rendered as a School Mother on a consolidated fixed pay w.e.f. 23.07.1990 to 30.09.2007 for the purpose of all retiral benefits including pension, gratuity and release all pensionary benefits along with 12% interest per annum in favour of the petitioner after counting of her past service as school mother.

The petitioner has prayed for the following reliefs:

“It is therefore, humbly prayed that Your Lordship would graciously be pleased to issue rule upon the respondents to show cause as to why the

respondents should not transmit all records relating to the case of the petitioner.

AND

As to why a writ in the nature of certiorari should not be issued quashing/setting aside the letter vide No. PEN-2/SUP/PR-104/2021-22/10648 dated 04.02.2022 issued by the respondent No.9, letter vide No. Pen-2/SUP/PR-104/2021-22/10979-80 dated 22.03.2022 issued by the respondent No.9 i.e. in favour of the respondent No.7 and the letter vide No.F1(17)/CDPO/KGT/ESTT/2015 dated 06.05.2022 issued by the respondent No.7 whereby the petitioner was informed that she is liable to pay excess amount of Rs.1,22,100/- paid to her by the respondents as gratuity.

AND

As to why a writ in the nature of mandamus should not be issued directing the respondents to count the past service of the petitioner which was rendered as a School Mother on a consolidated fixed pay w.e.f. 23.07.1990 to 30.09.2007 for the purpose of all retiral benefits including pension, gratuity etc and release all pensionary benefits along with 12% interest per annum in favour of the petitioner after counting of her past service as School Mother.

AND

In the interim be pleased to staying effect and operation of the letter vide No. F1(17)/CDPO/KGT/ESTT/2015 dated 06.05.2022 issued by the respondent No.7 whereby the petitioner was informed that she is liable to pay excess amount of Rs.1,22,100/- paid to her by the respondent as gratuity till disposal of the writ petition.

AND

As to why such other order/orders should not be passed so as to give full relief to the petitioner and upon causes shown, to make the rule absolute.”

The facts in brief are that the petitioner was appointed as School Mother on consolidated fixed pay on 13.09.1990 and subsequently, she was appointed as a school mother on regular basis on 01.10.2007. the petitioner retired from service w.e.f. 30.04.2021 but, the respondents did not release her legally entitled pensioner benefits to the petitioner and issued letter dated 06.05.2022 whereby the petitioner was informed that she is liable to pay excess amount of RS.1,22,100/- paid to her by the respondents as gratuity. The state

respondents most illegally and arbitrarily did not count the past service of the petitioner which was rendered as School Mother and not illegally the respondents denied to allow the pensionary benefits to the petitioner.

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

Learned counsel Mr. K. Pandey appearing for the petitioner has submitted that the petitioner would have completed her pensionable service long before and even after rendering service for over 30 years she retired without receiving her legally entitled pensionary benefits. The petitioner rendered no less important service than that of the other workers and other irregular employees under the State Government whose past services are counted towards pension and consequently if the contingent workers and similar other persons are entitled to pension on the basis of counting their service as contingent workers and irregular employees, the petitioner should not be deprived of at least similar benefits.

Similarly situated persons like the petitioner filed writ petition vide No.W.P.(C) No.853 of 2017 and other connected writ petitions. This Court after hearing both the parties allowed the writ petitions of the writ petitioners by judgment and order dated 21.08.2017 and directed the State respondents that the service rendered by the writ petitions from the date of their joining as School Mother on fixed pay basis till their regularization shall be added to their regular service and to release all retiral benefits.

In similar cases one Anarkali Begam had filed a writ petition vide No. W.P.(C) No.439 of 2020 before this Court for a direction to the respondents to count her past service which was rendered as School Mother on a consolidated fixed pay w.e.f. 21.07.1990 for the purpose of retiral benefits including pension. This Court by an order dated 10.09.2020 allowed the writ petition and directed that the entire service of the petitioner from her initial engagement as a school mother till her regularization shall also qualify for the purpose of calculating her pension and retiral benefits and also directed that the

pension and other retiral benefits shall be calculated on such basis and released within three months from the date of order.

Having considered the submissions advanced by the learned counsel appearing for both the parties and after gone through the judgments of this Court as cited above, this Court is of the view that the ends of justice would be met the if writ petition is allowed by setting aside the impugned letters dated 04.02.2022 and 22.03.2022 issued by the respondents. Thus, the order of recovery of excess amount stands quashed. However, with regard to the other reliefs for granting arrears in terms of gratuity is concerned, the respondents shall take a decision and communicate the same to the petitioner, in accordance with law.

Accordingly, the present petition stands allowed to the extent as indicated above and disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh



सत्यमेव जयते