

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.518 of 2022

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

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

25/04/2023

Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner. Also heard Mr. B. Majumder, learned Deputy SGI and Mr. K. De, learned Addl. G.A. appearing for the respondents.

This petition has been filed under Article-226 of the Constitution of India seeking a writ of mandamus directing the respondents to grant one advance increment in favour of the petitioner under Rule-13(1) (v) of the Tripura State Civil Services (Revised Pay) Rules, 2009 having completed B.Ed. degree prior to 01.01.2009 after entering into service.

The petitioner has prayed for the following reliefs:

- i. Issue notice upon the respondents.
- ii. Call for the records.
- iii. Issue rule calling upon the respondents to show cause as to why the petitioner shall not be given the benefit of one increment as per Rule-13(1) (v) of the Tripura State Civil Services (Revised Pay) Rules, 2009.

AND

Issue rule calling upon the respondents to show cause as to why further direction to re-fix the pay of the petitioner and grant arrears accordingly upon grant of such increment to the petitioner shall not be issued.

AND

Issue rule calling upon the respondents to show cause as to why the memorandum dated 6th July, 2011 issued by the Finance Department, Government of Tripura shall not be set aside and quashed.

AND

Issue rule calling upon the respondents to show cause as to why a direction shall not be issued to initiate fresh pension proposal and sanction fresh pension for the petitioner after addition of the advance increment in terms of prayer above.

iv. And after hearing the parties, be pleased to make the rule absolute.”

The case of the petitioner is that the petitioner entered into the service as Post Graduate Teacher in History subject vide memorandum dated 5th October, 1990. After entry into service the petitioner was on fixed pay for a period of two years and thereafter on completion of two years of service regular pay scale was extended to the petitioner. The Tripura State Civil Services (Revised Pay) Rules, 1999 was amended vide First Amendment notified by notification dated 5th March, 1999 and Note-3 was inserted in Rule-10 of TSCS (RP) Rules, 1999 which provided for grant of increment to in-service teachers on successful completion of departmental training.

TSCS (RP) Rules, 1999 was discontinued with promulgation of TSCS (RP) Rules, 2009 and under Rule-13(1)(V) of TSCS (RP) Rules, 2009 a cut-off date was introduced. It was provided that those who completed B.Ed. or other departmental training after 01.01.2009 will be entitled to lump-sum benefit and those completing B.Ed. prior to 01.01.2009 will be entitled to one increment. Thereafter, as an in-service candidate the petitioner completed his B.Ed. on 26.07.2005 and became entitled to one advance increment. The petitioner completed his B.Ed. after entry into service and prior to 01.01.2009 and as such the petitioner was entitled to an advance increment under Rule-13(1) (v) of Rules, 2009.

Grant of training incentive in the form of advance increment was introduced by TSCS (RP) (1st Amendment) Rules, 1999 notified vide notification dated 5th March, 1999 whereunder by virtue of Note-3 it was provided to grant one advance increment to teachers on successful completion of departmental training. The said system of granting one advance increment was replaced by lump-sum benefit for training w.e.f. 01.01.2009 under the ROP Rules, 2009. The petitioner completed his B.Ed. on 26.07.2005.

The Finance Department, Govt. of Tripura issued a memorandum on 6th July, 2011 whereby it was provided that the fixed pay employees do not come under the purview of revision of pay rules and therefore the teachers who completed the B.Ed. after entry into service are entitled to lump sum benefit and not the increment as provided under the rules. The said memorandum dated 6th July, 2011 is contrary to the rules of 2009 as Rule-13(1)(v) of the Rules of 2009 clearly provides that teachers who completed B.Ed. after entering into service and prior to 01.01.2009 are entitled to one advance increment.

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 case of the petitioner in the light of the representation made by the petitioner before the respondent in accordance with law within a period of two 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