

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 438/2023

Sri Tarun Chandra Shil

----Petitioner(s)

Versus

The State of Tripura and 2 ors.

----Respondent(s)

For Petitioner(s)	:	Mr. DK Daschoudhury, Advocate
For Respondent(s)	:	Mr. D. Bhattacharjee, GA
		Mr. S. Saha, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH
Order

27/07/2023

Heard Mr. DK Daschoudhury, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharjee, learned GA assisted by Mr. S. Saha, learned counsel appearing for the respondents.

By means of filing the present writ petition, the petitioner has sought for the following reliefs:-

- "i. Issue notice upon the respondents;**
- ii. Call for the relevant records and documents, if necessary;**
- iii. Issue rule directing each of the respondents to show-cause as to why the respondents shall not regularize the service of the petitioner in the post of Helper Grade II in the pay scale of Rs. 4530-13000/- (Pay Band 1 + Grade pay Rs. 1200/-) plus other admissible allowances with effect from 01.01.2009 AD on completion of ten years of service;**
- iv. Issue rule directing each of the respondents to show cause as to why the petitioner shall not be paid arrears of pay and allowances with benefits of subsequent revisions of pay from 01.01.2009 to 05.04.2011;**
- v. Grant any other relief/reliefs to the petitioners as the Hon'ble High Court deems fit and proper".**

Prior to filing of this writ petition, the petitioner had approached this court by filing another writ petition for a direction upon the respondents to regularize his service w.e.f. 01.01.2009 in the scale of pay of Rs. 4530-13,000/- PB-1+GP Rs. 1200/- with all financial benefits. The said writ petition was numbered as WP(C) 29 of 2021. After hearing learned counsel appearing for the parties, it was disposed of vide order dated 01.07.2022, with the following observations and directions:

“8. Having heard the learned counsel for the parties, this court directs the respondents to consider the case of the petitioner for regularization, if found suitable. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The respondents shall pass the necessary orders, in accordance with law, and the same shall be communicated to the petitioner.

9. In the event the petitioner is aggrieved by the order of the respondents, he shall be at liberty to challenge the same since the doctrine of resjudicata will not apply as there will be fresh cause of action”.

In view of the judgment and order dated 01.07.2022 passed by this court in WP(C) 29 of 2021, the petitioner submitted his representation to the respondent no. 3 seeking regularization of his service with all financial and service benefits. In response to the said representation, the respondent no. 3 vide communication under No. F.3(50)-TSECL/HRM/Court Case/2022/15237-53, dated 01.04.2023 (Annexure 3 to the writ petition), informed the petitioner that he was not suitable for regularization.

Mr. Daschoudhury, learned counsel for the petitioner has strenuously argued that the respondents are under obligation to assign reasons in the impugned order dated 01.04.2023 whereby and whereunder the respondents have stated that the petitioner is not suitable for being regularized.

In the opinion of this court, the reasoning of the respondents that the petitioner is not suitable for regularization is itself a reason. It is not the duty of the court to determine the suitability of an employee. It is absolutely within the prerogative of the employer. It is an order simpliciter. So, this court will refrain itself from interfering with the findings of the employer, the respondents herein.

As a sequel, I find no merit in the instant writ petition, and accordingly, the same stands dismissed at the motion stage itself.

JUDGE

