

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.84 of 2023

The State of Tripura and others

..... Appellant(s)

V E R S U S

Sri Sadhan Chandra Das

..... Respondent(s)

For Appellant(s) : Mr. M. Debbarma, Addl. GA.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S. D. PURKAYASTHA**

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18/12/2023

Heard Mr. M. Debbarma, learned additional Government Advocate
for the appellants-State.

[2] Copy of the service book obtained by learned additional Government Advocate has been placed before us. The present appeal arises out of the judgment dated 18.01.2023 in WP(C) No.851 of 2021 passed by learned writ court directing the respondents to grant ACP-III on completion of 25 years of service to the petitioner *inter alia* holding as under:

“This is a clear anomaly and for this reason, I direct the respondents to correct/remove the anomaly and grant similar pay benefit to the petitioner as that of the persons mentioned above. It is made clear that under no circumstances, a senior official will get lesser pay than that of his junior officials which happened in this case. Though the petitioner and the persons mentioned here-in-above are of batch-mates, but, from the pay bills it appears that the petitioner is the senior than that of all the persons named above except Hradhan Jamatia.

It is further directed that the respondents shall grant ACP-III which he was denied even after completion of 25 years of service before the date of his superannuation. The entire exercise shall be made within a period of three months from today. The pay fixation shall be made notionally.

With the above observations and directions, the instant writ petition accordingly stands allowed and disposed”

[3] The State does not appear to be aggrieved by the other ancillary direction upon them to remove the pay anomaly and grant similar pay benefit to

the petitioner since some junior officials were found to have been granted higher pay than the petitioner. The petitioner had approached the writ court for providing ACP-II & ACP-III and also to grant up-gradation in the grade pay, salary, allowances etc. at par with his batch-mates namely Haradhan Jamatia and Shibu Ranjan Debnath. During course of writ proceedings the petitioner did not press claim for 2nd ACP as he has been granted regular promotion. As the facts unfold, petitioner was appointed as Constable of Police in the year 1991 and promoted as Assistant Sub-Inspector of Police on 13th October, 2006. He got first CAS-I in 26th March, 2001 in the scale of Rs.3300-7100/-. Later he has promoted to ASI on 13.10.2006 in the scale of Rs.4000-7890/-. He completed 25 years of service in the year 2016 and, therefore, claimed benefit of 3rd ACP. Since his grievances were not met, he approached the writ court. The learned writ court accepted the claim of the petitioner that certain batch-mates were getting higher pay and, accordingly, issued consequential direction for stepping up of pay in the nature of pay protection at par with the junior batch-mates. Learned writ court also found that he had not been granted 3rd ACP though he had completed 25 years of service.

[4] Mr. M. Debbarma, learned additional Government Advocate submits that impugned judgment suffers from errors in law. It is, however, admitted that the petitioner was granted the benefit of scale of Rs.3300-7100/- erroneously though upon scale advancement he should have got the scale of 3200-6030/- on 26th March, 2001. However, learned counsel for the State does not dispute that apart from the first financial up-gradation granted on 26th March, 2001, petitioner has got only one regular promotion to the post of ASI on 13th October, 2006 in the scale of Rs.4000-7890/- and therefore no further financial up-gradation or second regular promotion has been granted to him.

[5] The State appears to bear an impression that since the first financial up-gradation was granted on a wrong scale of pay that is Rs.3300-7100 instead of Rs.3200-6030/- which was never noticed or corrected by the State-respondents, petitioner would lose the chances of getting the benefit of 3rd ACP even though he has completed 25 years of service.

[6] Mr. M. Debbarma, learned additional Government Advocate has sought to draw attention of this court to the Revision of Pay Rules, 1999 and Revision of Pay Rules, 2009. However, we are not persuaded by the plea since in the larger analysis petitioner has not got the benefit of 2nd regular promotion in 25 years of his service nor been granted the 3rd financial up-gradation in the nature of 3rd ACP. If the respondents themselves allegedly granted a scale of Rs.3300-7100/- instead of Rs.3200-6030/- on 26th March, 2001, under CAS-I, at this belated state, it is not open for them to rely on the otherwise legitimate claim of the petitioner for the benefit of 3rd ACP on completion of 25 years of service. As such, we do not find any reason to interfere in the order.

[7] Accordingly, the instant appeal is dismissed. Pending application(s), if any, also stands disposed of.

(S. D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ