

**HIGH COURT OF TRIPURA
AGARTALA
WA NO.200 OF 2021**

1. The Union of India,

represented by its Secretary, Ministry of Human Resource and Development, Presently; Ministry of Education, Government of India, Shastri Bhawan, New Delhi-110001

2. National Institute of Technology Agartala,

represented by its Registrar, P.O. & P.S. Jirania, District : West Tripura

3. The Director,

National Institute of Technology, Agartala, P.O. & P.S. Jirania, District : West Tripura

4. The Chief Vigilance Officer,

National Institute of Technology, Agartala, P.O. & P.S. Jirania, District : West Tripura

5. The Board of Governors,

represented by its Chairperson, National Institute of Technology, Agartala, P.O. & P.S. Jirania, District : West Tripura

..... **Appellant-Respondent(s)**

Vs.

Sumanta Chakrabarti,

son of Sri Hiranmay Chakrabarti, resident of Ramkrishna Mission Road, Town Bardowali, P.O. Agartala, P.S. West Agartala, District : West Tripura.

..... **Respondent-Petitioner(s)**

For the Appellant(s) : Mr. B. Majumder, Deputy SGI.

For the Respondent(s) : Mr. A. Bhaumik, Advocate.
Mr. S. Dey, Advocate.

Date of hearing and delivery of
Judgment & Order : 02.08.2023.

Whether fit for reporting : YES/NO.

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

JUDGMENT AND ORDER(ORAL)

T. Amarnath Goud(J)

This present writ appeal has been filed under Chapter V-A of the High Court Rules against the Judgment and Order dated 31.05.2021 and order of Correction dated 21.06.2021 passed in WP(C) No.1298 of 2017 by the Hon'ble Single Bench of this Court.

2. The respondent-petitioner herein was appointed as Deputy Registrar(Administration) of the National Institute of Technology, Agartala (in short' NITA') vide letter dated 21.07.2011 and subsequently, he had joined vide joining letter dated 12.08.2011. The appellant-respondent No.2 herein sent a letter dated 11.03.2016 to the petitioner stating that as per the instruction of appellant-respondent No.1, the Director of NITA has decided to investigate certain allegations against the respondent-petitioner herein through appellant-respondent No.4 herein, those allegations are as follows:-

"(a) The petitioner does not have the minimum qualification for the post of Deputy Registrar as he did not have the Masters Degree in any discipline but the petitioner was only having Bachelors Degree in Engineering.

(b) The petitioners Ph.D. Degree is not genuine and the thesis submitted by the petitioner in BITS Pilani is a case of plagiarism.

(c) the petitioner had falsely and with malicious intention enrolled his name under the old pension scheme, even though, the employees who are recruited after 2004 will not be entitled for old pension scheme Further by way of amendment petitioner has challenged the decision of Board of Governor of NITA taken in item No.42.5, viz 42.5.1, 42.5.2, 42.5.3 in its 42ND

meeting held on 27.12.2017, Whereunder Item No.42.5.1 it was decided that the Ph.D qualification of the petitioner shall not be upgraded in his service book and under Item No.42.5.2. it was decided that the appellant cannot get the pay upgradation on completion of 5 years of service as per 6th CPC and under item No.42.5.3., it was decided that the petitioner will not be allowed to get GPF and pensionary benefit."

3. The petitioner-respondent herein approached the Hon'ble Single Bench of this Court by filing the writ petition being WP(C) No.1298 of 2017, inter alia seeking a writ of certiorari for setting aside/quashing the entire proceeding initiated by respondent No.2 therein by letter dated 11.03.2016.

4. The learned Single Judge vide its Judgment dated 31.05.2021 and order of correction dated 21.06.2021 allowed the impugned writ petition.

5. Being aggrieved by the impugned Judgment as mentioned herein, the respondents as appellants has filed this present appeal seeking to set aside the Judgment and Order dated 31.05.2021 and order of correction dated 21.06.2021 passed in WP(C) No.1298 of 2017 passed by the Hon'ble Single Judge of this Court.

6. Heard Mr. B. Majumder, learned Deputy SGI appearing for the appellants as well as Mr. A. Bhowmik, learned counsel appearing for the respondent.

7. Mr. Majumder, learned Deputy SGI appearing for the appellants submits that in the present case, the petitioner had been appointed in the NIT on 12.08.2011. Therefore, as per clause

29 of NIT statute, since the petitioner had been appointed after 01.01.2004 as provided in clause 29 of NIT statute, the petitioner is not entitled to get the GPF as per Central Civil Pension Rules and the petitioner will be guided by New Pension Scheme. Admittedly, as stated in the writ petition, the petitioner had bachelor degree in Civil Engineering in 1st class from Tripura University. Therefore, the petitioner admittedly does not have any Master Degree at the time of appointment as Deputy Registrar in the NIT. It is provided in the Notification issued by the Ministry of Human Resource & Development, Department of Higher Education dated 31.12.2008 is that for minimum qualification for direct recruitment to Deputy Registrar and equivalent post shall be Master Degree with at least 55% marks or equivalent grade of 'B' in the UGC. Further, the petitioner-respondent did not obtain any permission from the NIT prior to the completion of Ph.D. Therefore, his Ph.D. cannot be upgraded.

8. On the other hand, Mr. Bhaumik, learned counsel appearing for the respondent highlighted before this Court the memorandum No.NITA.2(335-Estt)/2011/8516-19 dated 04.12.2012 and memorandum No.F.NITA.2(335-Estt)2011/4204-05 dated July, 23rd 2013 issued by the Director, NITA. Learned counsel submitted that in terms of the aforementioned memorandums, it is evident that after the entry of the respondent in the NITA, he was given the benefit of his past service and he

was allowed to convert his EPF to GPF, and all this while appellants accepted his GPF contribution.

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

10. Admittedly, memorandum No.NITA.2(335-Estt)/2011/8516-19 dated 04.12.2012 and memorandum No.F.NITA.2(335-Estt)2011/4204-05 dated July, 23rd 2013 issued by the Director, NITA clearly indicates that the past service of the respondent was taken into consideration and benefits were extended to the respondent herein basing on the service record which would be made available.

In the memorandum dated 23rd July issued by the Director(I/C) NITA it is mentioned that " *Sumanta Chakraborty, Deputy Registrar (Administration) NIT Agartala was declared absorbed and confirmed in past of Deputy Registrar(Admin) in NIT Agartala from date of joining in NIT Agartala w.e.f. 12.08.2011 protecting his pay and counting his earlier service.....*". Further in the same memorandum it is stated that "*..... he is entitled to have the benefits counting his past services w.e.f. 16/03/1996 to 11/8/2011 for all purpose of leave and pensionary benefits including gratuity etc....*". So, subsequent to his earlier appointment in 2011, he was absorbed into NITA as Deputy Registrar (Administration) and the benefits have been extended. Accordingly to their own memorandum, the respondent herein is

entitled to pension under the Old pension scheme to which he has already given his option and he is entitled to the same.

11. Per contra the appellants submit before this Court that since the petitioner has been appointed in NITA on 12.08.2011, the new pension schemes need to be made applicable. This Court is not inclined to appreciate the same, since the said aforementioned memorandums which are issued by the Director of NITA himself needs to be taken into consideration. In the event if the appellant-institution feels that the Director has committed an error, it is for them to take appropriate steps against the Director, if so desired, for issuing such proceedings. But at this juncture, it is not proper for this Court to decide the proceedings issued by the said Director are on per with the Rules.

12. With the above observation the impugned Judgment and Order dated 31.05.2021 and order of correction dated 21.06.2021 passed in WP(C) No.1298 of 2017 is upheld and this present appeal stands dismissed. As a sequel, stay if any stands vacated. Pending application(s) if any also stands closed.

JUDGE

JUDGE

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