

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.461 of 2023

1. Sri Bijoy Kumar Deb, Son of Late Rajendra Chandra Deb, Resident of West Bhubanban, Agartala, West Tripura, Pin-799002 (Age-50 years)
2. Sri Susanta Das Baishnab, Son of Gopal Das Baishnab, Resident of Barjala, Agartala, West Tripura, Pin-799002 (Age-39 years)

.....Petitioner(s)

Versus

1. The State of Tripura to be represented by the Principal Secretary/Secretary, Education (Higher) Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, Pin-799010
2. The Additional Secretary, Education (Higher) Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, Pin-799010
3. The Under Secretary, Education (Higher) Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, Pin-799010
4. The Director of Higher Education, Tripura, Directorate of Higher Education, Shiksha Bhavan, Office Lane, Agartala, West Tripura, Pin-799001

.....Respondent(s)

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : Mr. D. Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

01/08/2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Dipjyoti Paul, learned counsel for the petitioners and Mr. D. Sarma, learned Additional Government Advocate for the respondents-State.

2. Petitioners have come with a grievance that as per clause 1.4(d) of the AICTE Regulations notified on 01.03.2019 relating to pay scales, service conditions and minimum qualifications for appointment of teachers and other academic staff such as Library, Physical Education and Training & Placement Personnel in technical institutions and measures for the maintenance of standards in Technical Education-(Degree) Regulation, 2019, the date of

eligibility of incumbent faculty members up to 31.07.2022 shall be allowed to be according to the 6th CPC Gazette notification published on 08.11.2012. All the benefits of promotion to such candidates should be permitted retrospectively on the date when she/he became eligible. This Regulation was clarified further by the AICTE vide notification dated 20.05.2020 on certain issues /anomalies in 7th CPC pertaining to qualifications, pay scales, service conditions, Career Advancement Schemes (CAS)/promotions, etc. for teachers and other academic staff of technical institutions (degree/diploma). As per Clause 13 of this clarification notification, the criteria for promotion laid down under these Regulations were to be effective from the date of notification of these Regulations. However, to avoid hardship to those faculty members who have already qualified or are likely to qualify shortly under the existing Regulations, a choice may be given to them, for being considered for promotions to the existing Regulations. This option can be exercised by degree and diploma teachers, but only within three years from the date of notification of these Regulations. In substance, it is their case that the present petitioners could have availed the benefit of promotion under 6th CPC pursuant to the notification dated 08.11.2012 without a PHD qualification. The petitioners fulfilled their requirements of CAS Regulations under 6th CPC in March, 2023. The Department of Education, Government of Tripura, however, issued the guidelines in pursuance to the AICTE Regulations only on 09.11.2022 for Career Advancement Scheme (CAS) for technical teachers (faculty members) employed in degree level technical and professional institutions i.e. Tripura Institute of Technology (Degree level) and Government College of Art & Craft, Lichubagan, Agartala, but arbitrarily fixed a cut-off date of 27.12.2022 for consideration of promotion from one Academic Level Grade Pay to another as

per the CAS Guidelines dated 19.10.2012 to such teachers. These two petitioners have completed 3 years in Stage-III of Assistant Professor with AGP of Rs.8,000/- in March, 2023; but have become ineligible for promotion to the post of Associate Professor Stage-IV with AGP of Rs.9,000/- under 6th CPC Guidelines dated 19.10.2012. The cut-off date fixed as per the notification dated 09.11.2022 is arbitrarily denying the benefit of CAS under 6th CPC as per the notification of 08.11.2012, since the period of 3(three) years as per Clause 13 of the clarification notification dated 20.05.2020 issued by AICTE should be over only by May, 2023. The notification of 09.11.2022 has fixed the cut-off date on 27.12.2022 i.e. only one and half months after the date of the notification thereby acting contrary to the spirit of the clarification notification dated 20.05.2020 at Clause 13 [Annexure-5].

3. It is submitted that, in fact, the notification dated 09.11.2022 [Annexure-7] also refers to Clause 13 of the Gazette Notification dated 20.05.2020 issued by the AICTE by way of a clarification under Clause 1.4. Petitioners' representation has been favourably recommended by the Principal, Tripura Institute of Technology on 06.04.2023 [Annexure-10]. It is submitted that the petitioners made a request to the Director, Department of Higher Education to extend the due date of eligibility for promotion under CAS as per notification on 6th CPC CAS guidelines from the date of notification on 7th CPC CAS guidelines/regulations dated 09.11.2022 in compliance to the AICTE Gazette Notification on 7th CPC CAS dated 29.05.2020 so that the case of the petitioners can fall into that category. Mr. Roy Barman, learned senior counsel for the petitioners, submits that it would suffice if a direction is issued upon the competent authority under the Department/respondent No.4 to consider the representations of the petitioners in accordance with law.

4. Mr. D. Sarma, learned Additional Government Advocate for the respondents-State, has submitted that the matter has been taken up for the first time; therefore, instructions have not yet been furnished. He further submits that fixing of the cut-off date is in the domain of the employer and is not in teeth of the Regulations notified by AICTE on 01.03.2019 or the clarification notification dated 20.05.2020. However, he submits that if so directed, the representations of the petitioners may be considered by the competent authority/respondent No.4 in accordance with law.

5. Having regard to the factual matrix of the case noted above and the grievance of the petitioners in relation to the claim of promotion under the 6th CPC Gazette Notification published on 08.11.2012, the fixing of cut-off date of 27.12.2022 as per the notification dated 09.11.2022 [Annexure-7] and that the petitioners have already moved the competent authority/respondent No.4 for redressal of their grievances by way of representations duly forwarded by the Principal, Tripura Institute of Technology, this Court, at this stage, is not inclined to make any comments on the merits of the claim of the petitioners. However, the representations pending before the respondent No.4 be considered in accordance with law and a decision thereupon be taken within a reasonable time preferably within a period of 10(ten) weeks from the date of receipt of the copy of this order.

6. Writ petition stands disposed of. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ