

HIGH COURT OF TRIPURA
AGARTALA

WA 201 OF 2021

1. The State of Tripura, to be represented by the Principal Secretary,
Department of Higher Education, Government of Tripura,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

2. The Director of Higher Education,
Department of Higher Education, Government of Tripura,
P.O. Agartala, P.S. West Agartala, West Tripura, PIN-799001.

3. The Secretary cum Commissioner, Finance Department,
New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

....Appellants.

Vrs.

1. Dr. Subir Sekhar Adhikari, presently residing at
C/o Sri Pulak Debbarma, Sankar Chowmuhuni,
Padma Kutir Lane, Krishnagar, P.O. Agartala, P.S. West Agartala,
District-West Tripura.

2. University Grants Commission, represented by its Secretary,
Bahadur Shah Zafar Marg, New Delhi, 110002.

...Respondents.

WA 202 OF 2021

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New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

....Appellants.

Vrs.

1. Dr. Alpana Bhattacharya,
Village-College Tilla, P.O. Agartala, P.S. East Agartala,
District-West Tripura.

2. University Grants Commission, represented by its Secretary,
Bahadur Shah Zafar Marg, New Delhi, 110002.

...Respondents.

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New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

....Appellants.

Vrs.

1. Dr. Jyotirmoy Sharma,
Village-Nutan Nagar, P.O. Airport, P.S. Airport,
District-West Tripura.

2. University Grants Commission, represented by its Secretary,
Bahadur Shah Zafar Marg, New Delhi, 110002.

...Respondents.

WA 204 OF 2021

1. The State of Tripura, to be represented by the Principal Secretary,
Department of Higher Education, Government of Tripura,
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West Tripura, PIN-799010.

2. The Director of Higher Education,
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3. The Secretary cum Commissioner, Finance Department,
New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

....Appellants.

Vrs.

1. Dr. Manabendra Debnath,
Dhaleswar Road No.3, P.O. Dhaleswar, P.S. East Agartala,
Agartala, West Tripura, PIN-79907.

2. University Grants Commission, represented by its Secretary,
Bahadur Shah Zafar Marg, New Delhi, 110002.

...Respondents.

WA 205 OF 2021

1. The State of Tripura, to be represented by the Principal Secretary,
Department of Higher Education, Government of Tripura,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

2. The Director of Higher Education,
Department of Higher Education, Government of Tripura,
P.O. Agartala, P.S. West Agartala, West Tripura, PIN-799001.

3. The Secretary cum Commissioner, Finance Department,
New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex,
P.O. Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN-799010.

....Appellants.

Vrs.

1. Dr. Mousumi Gupta (Sengupta),
Ramnagar Road No.4, near Sporting Club,
P.O. Ramnagar, P.S. West Agartala, District-West Tripura.

2. University Grants Commission, represented by its Secretary,
Bahadur Shah Zafar Marg, New Delhi, 110002.

...Respondents.

For the appellant(s) : Mr. D. Bhattacharya, G.A.
Mrs. N. Chakma Saha, Advocate.

For the respondent(s) : Mr. A. Bhaumik, Advocate.

Date of hearing & date
of delivery of : 17.05.2023
judgment and order

Whether fit for
reporting : No

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

JUDGMENT & ORDER(ORAL)

[T.Amarnath Goud, J]

These writ appeals are directed by the State-appellants i.e. the original respondents of the writ petitions against the common judgment and order dated 16.03.2021, passed by learned Single Judge of this court in WP(C) No.1391 of 2019 along with other writ petitions, whereby learned Single Judge had allowed the writ petitions.

The appeals, being WA No. 201 of 2021 [The State of Tripura & Ors. Vrs. Dr. Subir Sekhar Adhikari & Anr.], WA No.202 of 201 [The State of Tripura & Ors. Vrs. Dr. Alpana Bhattacharya & Anr.], WA No.203 of 2021 [The State of Tripura & Ors. Vrs. Dr. Jyotirmoy Sharma & Anr.], WA No.204 of 2021 [The State of Tripura & 2 Ors. Vrs. Dr. Manabendra Debnath & Anr.] & WA No.205 of 2021 [The State of Tripura & Ors. Vrs. Dr. Mousumi Gupta (Sengupta) respectively have been taken up for disposal by this common judgment since the reliefs as sought for by the State-appellants are similar and identical in nature.

2. The cases of the petitioners as narrated by learned Single Judge are as follows:

“The brief facts, which are essential to appreciate the plea as raised in the writ petitions, can be noted at the outset. The petitioners were appointed as post graduate teachers in the scale of pay of Rs.5,310-24,000/- with grade pay of Rs.2,400/- on 26.06.2010. So far the writ petitioners of WP(C)No.1391 of 2019, WP(C)No.1392 of 2019 and the petitioners in WP(C)No.1395 of 2019 are concerned, they were appointed as the post graduate teacher on 10.06.2010. When the petitioners were appointed as the post graduate teacher by the memorandum dated 26.06.2010 [Annexure-4 to the writ petition being WP(C)No.1391 of 2019], in the said memorandum it had been clearly mentioned that “the aforesaid PGTs are posted to the colleges as indicated in column No.4 of the said memorandum.” The post against which the petitioners were entertained, according to the Directorate of Higher Education, those posts are purely personal posts and will be abolished as and when the incumbents retired from the services or

resigned from the post. Before the petitioners were appointed as the post graduate teachers they were recruited as Part-Time Contract Teacher (PTCT) through a selection process as initiated by an advertisement which was published in the year 2001. As the petitioners were eligible for qualification as laid down in the said advertisement, they were participated in the selection and selected through the interview which was held on 26.12.2001. Accordingly, the petitioners were engaged as the PTCT and they were continuing in the said engagement. Thereafter, in the year 2010, the State of Tripura took a policy decision to regularise 292 PTCTs as post graduate teacher in the scale of pay of Rs.5,310-24,000/- with grade pay of Rs.2,400/- with other allowances by the memorandum dated 26.10.2010 or 10.06.2010.”

3. The reliefs sought for in WP(C) No.1391 of 2019 [*Dr. Manabendra Debnath Vrs. State of Tripura & Ors.*] which was considered to be the lead case amongst the other writ petitions, may be reproduced here-in-below:

“.....

III. Issue Rule calling upon the Respondents to show cause as to why the petitioner shall not be designated as Assistant Professor under the Respondent Department from the date of acquisition of qualification for the post of Assistant Professor with all consequential benefits including financial benefits.

AND

Issue Rule calling upon the Respondents to show cause as to why the petitioner shall not be granted the pay scale and AGP attached to the Post of Assistant Professor along with increments for Ph.D holders under the Respondent Department from the date of acquisition of qualification for the Post of Assistant Professor.

AND

Issue Rule calling upon the Respondents to show cause as to why the post against which the Petitioner is appointed shall not be upgraded to the post of Assistant Professor along with

appropriate pay scale and AGP (Academic Grade Pay) as per the UGC guidelines....”

4. After hearing learned counsel of both the parties in all the writ petitions, learned Single Judge had allowed the writ petitions by a common judgment as stated above with the following observations and directions:

“14. There is no dispute that on the dates as noted above [see the table], the petitioners are having all the qualifications for recruitment to the post of Assistant Professor in colleges. Thus, on the basis of qualification, no separate class can be created. The petitioners cannot be deprived of the equal pay attached to the post of Assistant Professor and hence, the respondents are bound to follow the principle of quantum meruit in respect of pay of the petitioner. In other words, the petitioners are entitled to the higher pay attached to the post of Assistant Professor. Hence, the respondents are directed to fix the pay of the petitioner in the scale of Rs.15,600-39,100/- with AGP Rs.6000/- [pre-revised], the pay scale mentioned in the recruitment rules for Assistant Professor, Govt. General Degree Colleges. The respondents shall pay the salary in the said pay scale i.e. Rs.15,600 – 39,100 with AGP Rs.600 from the date of this judgment.

15. That apart, the respondents are directed to frame a scheme within a period of six months to absorb or designate the petitioners in the post of Assistant Professor in consideration of their long tenure of service in teaching in the general degree colleges as there is no blemish in respect of their competence and the service by discharging the duties of Assistant Professors in the Government degrees colleges for decades. For that purpose, the maximum age be relaxed. The respondents are further directed that within three months from the day of framing of the scheme the petitioners shall be considered for absorption or designation as Assistant Professor in the general degree colleges.

*In terms of the above, these writ petitions stands allowed.
There shall be no order as to costs.”*

5. Being aggrieved by and dissatisfied with the impugned judgment and order, the State-respondents have preferred the present writ appeals before this court.

6. The facts leading to the cases of the appellants in all the writ appeals are that the original State-respondents have filed these appeals seeking relief on the ground that the appointment of Post Graduate Teachers was made on the basis of the Recruitment Rules of the Post Graduate Teachers under School Education Department, which is not at par the Recruitment Rules of Assistant Professor under UGC and the petitioners of the original writ petitions have not challenged the Recruitment Rules at the time of joining into their service and that there is no rule, policy for promotion to the post of Assistant professor directly from the post of Post Graduate Teachers under UGC guidelines.

7. We have heard Mr. D. Bhattacharya, learned G.A. assisted by Mrs. Nikita Chakma Saha, learned counsel appearing for the State-appellants and Mr. Arijit Bhaumik, learned counsel appearing for the respondent-petitioners.

8. Mr. Bhattacharya, learned G.A. at the very outset has fairly submitted that in compliance with the impugned judgment dated 16.03.2021, the State-appellants have introduced a scheme as was directed

by the learned Single Judge in the impugned judgment at Para 15 and the respondent-petitioners have been absorbed in the post of Assistant Professors. But, so far as the direction given in Para 14 of the impugned judgment that the respondents shall pay the salary in the said pay scale i.e. Rs.15,600-39,100 with AGP Rs.600 from the date of impugned judgment, it cannot be taken into consideration since the State has taken a conscious decision after passing of the judgment that the Assistant Professors discharging the duties in the Government Degree Colleges will be provided scale at par with the UGC scale of pay.

9. On the other hand, Mr. Bhaumik, learned counsel appearing for the respondent-petitioners has submitted that since the petitioners were recruited as post graduate teachers and subsequently, having acquired the required eligibility criteria they have been appointed as the Assistant Professor in pursuance of the direction of the impugned judgment, they are entitled to have their salary from the date of the impugned judgment i.e.16.03.2021.

10. Having considered the submissions of learned counsel appearing for the parties and on perusal of the impugned judgment, we find that the directions and observations given by the learned Single Judge at Para 15 of the impugned judgment have been complied with by the State-

appellants in letter and spirit. But, in so far as the direction given in Para No.14 of the impugned judgment in regard to making of the payment of the salaries of the respondent-petitioners as Assistant Professors are concerned, we are not inclined to affirm the findings returned by the learned Single Judge that from the date of judgment the petitioners would be provided with the pay scale as has been observed therein.

11. In the light of above discussion, we are of the considered view, that the directions given in Para 14 of the impugned judgment are not correct and liable to be interfered with. Accordingly, the findings given by learned Single Judge at Para 14 of the impugned judgment shall stand set aside and quashed.

The appeals are partly allowed and disposed of. Pending application(s), if any, shall also stand disposed of.

JUDGE

JUDGE