

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A_

WP(C) No.499 of 2023

Smti. Tilottama Deb

.....Petitioner

_V_E_R_S_U_S_

The State of Tripura & 2 Others

.....Respondents

For Petitioner(s) : Mr. R. Gope, Advocate.

For Respondent(s) : Mr. M. Debbarma, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_F_I_N_A_L_O_R_D_E_R_

22/08/2023

Heard Mr. R. Gope, learned counsel appearing for the petitioner also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution of India to grant one advance increment in favour of the petitioners under Rule-13(1) (ii) of the Tripura State Civil Services (Revised Pay) Rules, 2009 along with all arrears of financial benefit and also for setting aside the memorandum dated 6th July, 2011 issued by the Finance Department, Government of Tripura whereby, a decision has been taken to provide lump-sum benefit to teachers.

The petitioner has prayed for the following reliefs:

- i) Issue notice upon the Respondents.
- ii) Call for the Records.
- iii) Issue rule calling upon the respondents to show cause as to why the Petitioners shall not be given the benefit of one increment as per Rule 13(1) (ii) of the Tripura States Civil Services (Revised Pay) Rules, 2009 alongwith arrears of financial benefit.

AND

Issue Rule calling upon the Respondents to show cause as to why the memorandum dated 6th July, 2011 issued by the Finance Department, Government of Tripura shall not be set aside and quashed.

AND

Issue Rule calling upon the Respondents to show cause as to why the Petitioner shall not be granted all financial benefits as per the Judgment and order dated 19th March, 2021 passed in W.P(C) No. 703/2019 by this Hon'ble High Court as upheld by the Ld. Division Bench in W.A No. 207/2021 as well as judgment and order dated 23.11.2022 passed in WP(C) No.469/2021 (Annexure 10 to the writ petition).

AND

- iv. And after hearing the parties, be pleased to make the rule absolute."

The Petitioner is serving as Post Graduate Teacher in Political Science Subject. The petitioner completed B.Ed. on 30.09.2008 i.e. the date of publication of result. Thereafter the petitioner received the offer of appointment as Post Graduate Teacher on 17.08.2010 and accordingly joined in service pursuant to the offer of appointment. Thereafter the petitioner was on fixed pay for a period of 5 years and after completion of 5 years service on fixed pay basis, the petitioner was granted regular scale of pay vide memorandum dated 5.11.2015 w.e.f 26.08.2015. The petitioner completed B.Ed. prior to entry into service and as such the petitioner craves leave of this Hon'ble High Court to highlight Rule (13) 1 (ii) of the Tripura State Civil Services (Revised Pay) Rules 2009 which provides that those teachers who had obtained B.Ed. /UGBT before entry into service and have not got any other form of training incentive shall be provided with one increment in the pre-revised scale as incentive on 01.01.2006 or from the date of coming over of this rule or from the date of his appointment whichever is later for the purpose of revision under the Rules. Rule (13) 1 (ii) of Tripura State Civil Services (Revised Pay) Rules 2009.

Thus from the above it is clear that the teachers who entered into service with B.Ed./UGBT are entitled to one increment in the pre revised scale on 01.01.2006 or from the date of coming over to this rule or from the date of his appointment whichever is later. The said memorandum dated 6th July, 2011 has the effect of stopping the operation of Rule 13(1)(ii) of the Rules of 2009 and the said memorandum being contrary to the rules is liable to be set aside and quashed by this Hon'ble Court. Further the Petitioner having completed B.Ed. prior to entering into service is also entitled to increment under Rule 13(1) (ii) of the Rules of 2009. The petitioner completed their B.Ed. before entering service and therefore form a separate class being trained teachers and therefore are covered by Rule 13 (1) (ii) of the Revised Pay rules of 2009 and as such the petitioner is entitled to one increment as per the said rule 13 (1) (ii) of the Rules of 2009.

The memorandum dated 6th July, 2011 which restricts the operation of rule 13 (1) (ii) of the rules of 2009 is illegal being violative of the statute. The said memorandum also restricts the operation of the rules and it is a settled law that executive instructions/order/memorandums cannot supplement the rules but can supplant the rules. Vide the memorandum dated 6th July, 2011 the respondents have decided to grant lump-sum benefit which is not there in the rules and as such, the said

memorandum dated 6th July 2011 is illegal and requires interference by this Court. Further the petitioner states that he was on fixed pay for 5 years as per government policy but he was appointed against sanctioned posts carrying regular pay scale. Therefore, the decision to deny the increment to the petitioner on the ground of he being on fixed pay for a period of 5 years, is illegal.

Hence, the present petition has been preferred by the petitioner before this Court for redress.

In that view of the matter, without expressing any opinion on merits, the present writ petition stands disposed of directing the respondents to consider the case of the petitioner in the light of the representation dated 06.07.2023 submitted by the petitioner before the concerned respondent within a period of three months from the date of receipt of the copy of this order, in accordance with law.

In terms of the above, the present petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh

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