

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 516 OF 2023

Smt. Renu Deb (Ghosh) Vrs. The State of Tripura & 3 Ors.

For the petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Ms. A. Debbarma, Advocate.

For the respondent (s) : Mr. N. Majumder, Advocate.

HON'BLE MR. JUSTICE ARINDAM LODH

19.12.2023

Order

Heard Ms. A. Debbarma, learned counsel led by Mr. P. Roy Barman, learned senior counsel appearing for the petitioner. Also heard Mr. N. Majumder, learned counsel appearing for the respondents-TSECL.

By filing the present writ petition, the petitioner has prayed for following reliefs:

- (i) *“Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to extend the benefit of regularization of the Petitioner as Helper, Gr-II, w.e.f. 02.02.2012, i.e. from the date on which the Petitioner has completed 10 years of service as DRW.*
- (ii) *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to extend all ancillary and consequential benefits and with arrear w.e.f. 02.02.2012.*
- (iii) *Make the rules absolute.*
- (iv) *Call for the records.*
- (v) *Pass any further Order/Orders as this Hon'ble High Court considered fit and proper.”*

It is the case of the petitioner that she was engaged as Daily Rated Worker (DRW) on 01.02.2002 and completed 10 years of service as DRW on 01.02.2012. In terms of the schemes for regularization, dated 1st September, 2008 and 21st January, 2009, the service of the petitioner ought to have been regularized after completion of 10 years of service. Since the service of the petitioner was not regularized, she along with others had filed writ petitions before this Court. While disposing of the writ petitions, the Court directed to form an Inquiry Committee to examine whether the service

of the petitioner would be regularized. The Inquiry Committee was duly formed and submitted its report in connection with judgment and order rendered in WP(C) No.1292/2016, passed by a coordinate bench of this Court, which is reproduced here-in-below for convenience:

“REPORT OF THE INQUIRY COMMITTEE

Case No.WP(C)/1292 of 2016

Smt. Renu Deb (Ghosh).

Smt. Renu Deb (Ghosh) produced a Memorandum circulated vide No.F.10(2)-FIN(G)/2008 (Part) 275, dt-09.06.2009 of the Finance Department, Government of Tripura regarding regularization of service of DRW/Casual/Contingent worker before the enquiry committee wherein the name of Smt. Renu Deb (Ghosh) is incorporated in Annexure-5, Sl. No-200, ID No.1083 as DRW, Gr-D, date of engagement was shown as 01.02.2002, category shown as UR and qualification is Class-VIII passed.

The above said Memorandum with the Annexure 1 to 5 of the Finance Department, Government of Tripura regarding regularization of service of DRW/Casual/Contingent worker is the approval of Finance Department, Govt. of Tripura.

Tripura State Electricity Corporation Ltd. (TSECL) has regularized the service of DRW/Casual/Contingent workers as per list of the Finance Department, Govt. of Tripura and decision of the Government of Tripura.

In this particular case the petitioner has got approval from Finance Department, Govt. of Tripura. The authority may regularize her service as per Memorandum circulated vide No.F.10(2)-FIN(G)/2008 (Part)/275, dt-09.06.2009 of the Finance Department, Government of Tripura.”

The said inquiry report was submitted in the year 2020. In pursuance of the said inquiry report, offer of appointment dated 24.06.2019 [Annexure-7 to the writ petition] was issued in favour of the petitioner treating her service to be regularized w.e.f. 28th June, 2019 to the post of Helper Grade-II in regular scale of pay applicable against this post along with other financial benefits.

The grievance of the petitioner is that her service ought to have been regularized after completion of 10 years of service i.e. in the year 2012 and not w.e.f. 28th June, 2019. I have considered different facets of regularization. It is true that as per the Govt. Memoranda for regularization, the petitioner became eligible to get her service regularized after completion of 10 years of acquired service. According to this Court, this 10(ten) years of service only qualified the petitioner for regularization, but, it does not mean that she has any enforceable right for regularization. The petitioner has only

fulfilled the eligibility criteria for regularization after completion of 10 years of service. However, from some office orders placed before this Court at the time of hearing it comes to light that the respondents-TSECL had regularized the services of many DRWs/Casual workers w.e.f. the date they have completed their 10 years of service. They had been appointed against regular posts extending regular scale of pay with retrospective effect in terms of the directions of this High Court.

It is not the rule of law that everyone has to approach the Court for his/her legitimate claim. If a group of employees is found to have obtained orders from the Court for a certain cause or causes, then, same benefits should be extended to all other similarly situated persons.

In my opinion, the department concerned should not deprive such similarly situated persons only for the reason that they did not approach or obtain similar orders from the Court.

In view of the above, I direct the respondents to consider the claim of the petitioner in the light of the orders passed by the respondents in favour of some similarly situated employees, however, only to the extent of granting pay scale to the petitioner with retrospective effect. It is made clear that in case the benefit of regularization and regular pay scale is extended to the petitioner, then, it would be fixed notionally and she would not be entitled to any arrears of pay. The entire exercise shall be completed within a period of 6 (six) months from the date of receipt of the copy of this order.

The petitioner is directed to submit the judgments passed by this Court in the cases filed by the similarly situated persons to the concerned authority.

With the aforesaid directions and observations, the instant writ petition stands allowed and disposed.

JUDGE

SANJAY GHOSH

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