

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 605/2022

Sri Bireswar Debbarma & 3 others

.....Petitioners

Versus

The State of Tripura and 2 ors.

.....Respondents

For Petitioner(s) : Ms. N. Ghosh, Advocate

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

HON'BLE MR. JUSTICE ARINDAM LODH
Order

16/03/2023

Heard Ms. N. Ghosh, learned counsel appearing for the petitioners.
Also heard Mr. D. Sarma, learned Additional GA appearing for the respondents.

By means of filing this writ petition, the petitioners have prayed for the 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 regularize the service of the Petitioners retrospectively i.e. from the date of their engagement in their service on ad-hoc basis (w.e.f. 23.03.1996 (fore-noon), 22.03.1996 (fore-noon), 22.03.1996 (fore-noon) & 23.03.1996 (fore-noon) respectively), instead of 30.07.2004 (the date of their regularization);

(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 grant the financial up-gradation of CAS-I (in the scale of Rs. 10,000-15,000/-) on completion of 8 years of service, as per the 15th Amendment to the Tripura State Civil Services (Revised Pay) Rules, 1999, ACP-2, on completion of total 17 years of service, as per Rule 10 of the Tripura State Civil Services (Revised Pay) Rules, 2009, and MACP-3, on completion of total 25 years of service, as per Rule 12 of the Tripura State Civil Services (Revised Pay) Rules, 2017, in favour of the petitioners w.e.f. the date of their engagement in their service on ad-hoc basis;

(iii) 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 treat the past services rendered by the Petitioners on ad-hoc basis, for the purpose of granting the pension & retirement benefits to the Petitioner;

(iv) 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 promote the petitioner no. 3 to the promotional post of Assistant Engineer (Mechanical) under the Department of Agriculture, Govt. of Tripura;

- (v) Make the rules absolute;
- (vi) Call for records;
- (vii) Pass any further Order/Orders as this Hon'ble High Court considered fit and proper".

It is the contention of the petitioners that, petitioners no. 1 and 4 were first appointed on ad-hoc basis on 23.03.1996 and petitioners no. 2 and 3 were first appointed on ad-hoc basis on 22.03.1996 in the post of Junior Engineer. Thereafter, their services were regularized in the post of Junior Engineer with regular pay-scale on 30.07.2004.

In the instant writ petition, the petitioners have firstly prayed for counting the period of their services as Junior Engineer on ad-hoc basis till the period of their regularization. This point is covered by a judgment of this court rendered in **W.P(C) 191 of 2018** [*Sri Dhananjoy Jamatia vs. The State of Tripura and another*] where this court had directed the State-respondents to count the period of service who had served on ad-hoc basis.

Accordingly, the matter is settled. As such, I direct the respondents-State to count the period of service the petitioners had served the respondents on ad-hoc basis. It is made clear that such counting of service on ad-hoc basis shall follow the fixation of the pay scale of the petitioners on notional basis for the purpose of pensionary benefits and other allowances, but no arrears of pay for the said ad-hoc period.

Next prayer of the petitioners is to grant them ACP. ACP is applicable under Rule 10 of the Tripura State Civil Services (Revised Pay) Rules, 2009 which prescribes granting of ACP for direct recruitment. So, this prayer of the petitioners will be considered by the respondents in accordance with the relevant Rules i.e. ROP Rules, 2009.

Thirdly, it is the contention of **petitioner no. 3** that he was not considered for promotion when his juniors were promoted to the higher post i.e. Assistant Engineer (Mechanical).

Ms. Ghosh, learned counsel appearing for the petitioner has submitted that the petitioners no. 1, 2 and 4 have already been promoted to the post of Assistant Engineer (Mechanical).

In view of this, I direct the respondents-State to consider the case of the petitioner no. 3 for promotion to the post of Assistant Engineer (Mechanical), if his juniors were already promoted to the said post despite the fact that they are juniors to the petitioner no. 3.

It is surfaced in the writ petition that the petitioner no. 3 has not mentioned the names of the persons who being his juniors were promoted to the post of Assistant Engineer (Mechanical) without considering his promotion.

In view of this, I direct the petitioner no. 3 to submit representation to the concerned authority to consider his promotion within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the concerned authority of the respondents-State shall dispose of the representation of the petitioner no. 3 with reasoned order within a period of next two months from the date of receipt of the representation.

Accordingly, the instant writ petition stands allowed in terms of above directions.

JUDGE