

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 732/2022**

Smt. Sabita Barman,
W/o: Lt. Subhash Barman,
R/o: Vill Jubarajghat (Pal Para),
P.O & P.S: Melaghar, PIN: 799115.

.....Petitioner(s)

-VERSUS-

- 1. The State of Tripura,** to be represented by the Secretary Department of Finance, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S: New Capital Complex, Agartala, West Tripura, PIN: 799010.
- 2. The Secretary,** Social Welfare and Social Education, Govt. of Tripura, Ujan Abhaynagar, Agartala, Tripura.
- 3. The Director,** Social Welfare and Social Education, Govt. of Tripura, Ujan Abhaynagar, Agartala, Tripura.
- 4. The CDPO,** Melaghar ICDS Project, Melaghar, Sepahijala, Tripura.

.....Respondent(s)

For Petitioner(s)	:	Ms. A. Debbarma, Advocate
For Respondent(s)	:	Mr. M. Debbarma, Addl. GA
Date of hearing & Delivery of judgment & order	:	30.08.2023
Whether fit for reporting :		No

**HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT & ORDER (ORAL)**

Heard Ms. A. Debbarma, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Addl. GA appearing for the respondents-State.

By way of filing the present writ petition, the petitioner has prayed for regularization of her service. The case of the petitioner is that she joined as Part Time Worker(PTW) in the year 1994 in the office of the Child Development Project Officer, Melaghar, ICDS Project. Thereafter, in the year 2004, she was converted to Casual Basis Worker(CBW) and at present she is

working as CBW. For rendering her service for a long period, the petitioner has claimed for regularization of her service under the policies dated 01.09.2008, 21.01.2009 and 03.01.2014. The petitioner has enclosed a consolidated list of DRW/Contingent/Part Time/Fixed Pay/Casual workers wherein her name appeared at serial no.396 showing her engagement as CBW.

Ms. Debbarma, learned counsel for the petitioner has submitted that services of similarly situated workers have been regularized by the respondents, but, the petitioner was not regularized.

On the other hand, Mr. Debbarma, learned Addl. GA for the respondents-State has submitted that the service of the petitioner cannot be regularized on the ground that there is no sanctioned post, and the appointment of the petitioner was not made following the norms and regulations of appointing an employee under Article 14 and 16 of the Constitution of India. Moreover, the petitioner has been working under a project.

I have considered the rival submissions advanced by learned counsel appearing for the parties.

At the outset, I have perused the Memorandum dated 12.10.2004. This is a Memorandum where the Government of Tripura had found that many departments and wings of Government had been engaging workers/employees without prior concurrence of Finance Department. The Government had further observed that as per the provision of the existing rules, those engagements were liable to be summarily terminated and responsibility should be fixed on the officials responsible for such irregular engagements considering the fact that it has led to administrative as well as financial indiscipline and booking of unauthorized expenditure from the consolidated fund of the States.

However, keeping in mind the livelihood of such irregularly appointed workers, the Government of Tripura was found to be reluctant to terminate their services and decided to allow them to continue in their respective work by payment of wages as per rates paid to them earlier. The Memorandum dated 12.10.2004(Annexure-1 to the writ petition) also enclosed the list of such workers in which the name of the petitioner appeared at serial no.396. Similarly situated CBWs are found at serial nos.307, 308 and 346, the services of whose have been regularized by the authority concerned of the respective department.

In the light of the aforesaid facts, it is surfaced that the service of the petitioner was not only irregular but also an illegal appointment. There is no material to show that the petitioner was engaged on any sanctioned regular vacant post. Her appointment was entirely against the Constitutional schemes as enshrined under Article 14 and 16 of the Constitution of India. She was not appointed by the competent authority i.e. the Director of Social Welfare and Social Education. It is also not clear from the writ petition that the petitioner has requisite qualification to hold any post under the respondents. The Memorandum dated 12.10.2004, however allowed the petitioner to continue her service in the capacity she was engaged.

I have taken due consideration to the submission of learned counsel appearing for the petitioner that the services of 3(three) other similarly situated workers have been regularized, but, if any illegalities are committed by some of the authorities or any mistakes or wrong is committed then such illegalities or mistakes or wrong must not be allowed to be perpetuated. Accordingly, the regularization of the services of the workers, whose names are

found at serial nos.307, 308 and 346 cannot be taken as precedent for regularizing the service of the petitioner.

For the reasons stated and discussed here-in-above, I do not find any merit in the instant writ petition.

Accordingly, the instant writ petition stands dismissed.

Pending application(s), if any, also stands dismissed.

JUDGE

SANJAY
GHOSH
Snigdha

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