

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A_

WP(C) No.714 of 2021

For Petitioner(s) : Mr. A. Bhowmik, Advocate.
Mr. S. Dey, Advocate.
For Respondent(s) : Mr. D. Sarma, Addl. G.A.
Mr. N. Majumder, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

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10/03/2023

Heard Mr. A. Bhowmik, learned counsel appearing for the petitioners. Also heard Mr. D. Sarma, learned Addl. G.A. and Mr. N. Majumder, learned counsel appearing for the respondents.

The petitioners have 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 granted the benefit of ACP-II in the pay scale of Rs.11,000-18,000/- (now revised to Rs.13,575-37,000) w.e.f. the date of completion of 17 years of service from the date of grant of regular pay scale i.e. w.e.f. 30.09.2009 along with all arrears of financial benefit.

AND

Issue rule calling upon the respondents to show cause as to why the petitioners shall not be granted the benefit of 3rd MACP w.e.f. 30.09.2017 i.e. the date of completion of 25 years of service from the date of grant of regular pay scale along with all arrears of financial benefit.

AND

Issue rule calling upon the respondents to show cause as to why the memorandum dated 31.03.2021 and the office order dated 09.08.2021 shall not be set aside and the petitioners shall not be granted the benefit of one increment as per prayer above for MACP-3 as well as annual increment on usual course.

AND

Issue rule calling upon the respondents to show cause as to why the respondents shall not be restrained from carrying out any recovery in term of the memorandum dated 31.03.2021 and office order dated 09.08.2021.
iv. And after hearing the parties be pleased to make the rules absolute.

AND

In the interim be pleased to restrain the respondents from carrying out any recovery from the salary of the petitioners pursuant to the impugned memorandum dated 31.03.2021 till disposal of the writ petition.”

The case of the petitioners is that they filed this petition for a direction to grant the benefit of ACP-II from the date of completion of 17 years of continuous and satisfactory service from the date of grant of regular pay scale w.e.f. 30.09.2009 along with all arrears of financial benefits. The petitioners further seek the benefit of MACP-3 from the date of completion of 25 years of continuous and satisfactory service from the date of grant of regular pay scale w.e.f. 30.09.2017 along with all arrears of financial benefits.

They further seek impeachment of the memorandum dated 31.03.2021 and the office order dated 09.08.2021 whereby one increment has been deducted from the basic pay of the petitioners. The petitioners state that the petitioners were appointed as Junior Engineer, (Grade-I), degree holder on fixed pay basis @ Rs.1,00/- per-month vide office order dated 5th April, 1990 for a period of one year. Thereafter the pay scale for the post of junior engineer degree holder (Grade-I) was enhance to Rs.2100-4530/- and accordingly the petitioners were also granted the said scale of Rs.2100-4530/- but subsequently the State respondents sought to cancel the said pay scale of Rs.2100-4530/-. The petitioners did not get any promotion and in lieu of promotion the petitioner s are entitled to three financial/scale up-gradations as per the scheme under the Revision of Pay Rules.

Further, after incorporation of Tripura State Electricity Corporation in the year 2005, the services of the petitioners have been placed under TSECL. The benefit of ACP was replaced by the benefit of MACP w.e.f. 01.04.2017. The denial of benefit of ACP-II and MACP-3 from 30.09.2009 to 30.09.2017 is grossly illegal, unjustified and violative of the statutory and fundamental right of the petitioners enshrined under Article-14 and 16 of the Constitution of India.

In view of above, this Court is of the opinion that justice would be met if the matter is remand back to the concerned authority by setting aside the impugned office order dated 09.08.2021 and thus, ordered. The said order,

which is under challenge, was relating to recovery of the increment that are said to have been fixed and subsequently, found that the fixation is incorrect on the issue of surplus of the petitioner-employees and as such, it was directed to deduct amounts from the salary of the petitioners.

A fair reading of the said proceeding it is seen that no opportunity was given to the petitioners before passing of such office order. Hence, it is violative of principles of natural justice. Accordingly, the impugned office order stands set aside. However, the respondents are at liberty to recover the same, if they are legally entitled following the due process of law by issuing notice and after giving adequate opportunity for their explanation.

Before passing of such order, the respondents shall give an opportunity of personal hearing to the petitioners, if required. This entire exercise shall be completed within a period of three months from the date of receipt of the copy of this order. However, it is made clear that the petitioners are directed to cooperate with the respondent officials failing which; the respondent officials are at liberty to pass orders in absence of the petitioners.

In view of above directions and observations, the present writ petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

CHIEF JUSTICE (ACTING)

A. Ghosh