

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.795 of 2022

Sri Maran Chandra Das

....Petitioner(s)

Versus

The State of Tripura and 3 Ors.

....Respondent(s)

For the Petitioner(s)	:	Mr. Somik Deb, Sr. Advocate Mr. P. Chakraborty, Advocate
For the Respondent(s)	:	Mr. M. Debbarma, Addl. GA Mr. N. Majumder, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

22/11/2023

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. P. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Addl. GA appearing for the respondents-State and Mr. N. Majumder, learned counsel appearing for the respondents-TSECL.

The brief facts of the case are that the petitioner was first engaged as Contingent Worker since the year 1997. In view of the policy taken by the Government of Tripura which was applicable to TSECL, the service of the petitioner as Contingent Worker was regularized and an appointment letter was issued vide order dated 02.04.2011, wherein it was stated that *"In reference to the offer vide no.F6(151)-TSECL/05/Pt-2/36421-670 issued on 27.12.2010 and subsequent verification of necessary certificate/documents the services of the following DRW/contingent workers are hereby regularised on purely temporary basis to the post of Helper Gr-II in the scale of pay of Rs.4530-Rs.13000/-(Pay Band-I + Grade pay-Rs.1200/-) plus other admissible allowance as applicable to the employees of the corporation with the terms and condition laid down in the aforesaid offer. The aforesaid regularization will be effective from the date of joining to the post on regular basis. They should join at the respective places of posting by 11th April, 2011."*

Thereafter, the petitioner had joined his service on 05.04.2011 at his place of posting. The grievance of the petitioner is that despite his regularization in the pay scale of Rs.4530-Rs.13000/-(Pay Band-I + Grade pay-Rs.1200/-), the petitioner was not given the said pay scale till today, which is admitted by Mr. N. Majumder, learned counsel for the respondents-TSECL.

Mr. Majumder, learned counsel has taken the plea of delay and laches.

I have considered the submissions of learned counsel appearing for the parties.

In my view, the doctrine of delay and laches will not be applicable when the question of payment of pay scale arises. The petitioner joined the service in the year 2011 itself and no pay scale has been provided to him till today. It is true that the petitioner should have approached this Court much earlier. For this reason, he is not entitled to get arrears of regular pay scale with effect from the date of his regularization of service. However, following the principle laid down in the cases of *Shiv Dass vs. Union of India*, (2007)1 SCC 455 and *Union of India and Ors. vs. Tarsem Singh*, (2008) 8 SCC 648, the reliefs prayed for by the petitioner can be moulded by restricting the payment of arrears to 3(three) years preceding to the date of filing of the writ petition. In the instant case, the petitioner is entitled to get arrears of regular pay scale as mentioned in the appointment order dated 02.04.2011 only for the period of 3(three) years, that is, w.e.f. 13.09.2019 preceding to the date of presentation of the writ petition on 13.09.2022 including other financial benefits. It is further directed that the petitioner shall be provided with all other service benefits permissible under the rules since the date of his joining into service, that is, w.e.f. 05.04.2011. Needless to say, the regular pay scale shall be granted to the petitioner from now. It is further made clear that the arrears of pay w.e.f. 05.04.2011(date of his joining) till 12.09.2019 shall be fixed notionally.

Compliance of this order shall be carried within a period of 2(two) months from today.

Accordingly, the instant writ petition stands allowed and thus disposed.

JUDGE