

**HIGH COURT OF TRIPURA
AGARTALA
WA NO.274 OF 2021**

Sri Mrinal Kanti Sil.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.275 OF 2021

Smt. Bina Chakraborty.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.276 OF 2021

Sri Sujit Biswas.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.277 OF 2021

Sri Minati Sen.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.278 OF 2021

Sri Badhan Chakraborty.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.279 OF 2021

Sri Kutubhushan Kar.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.280 OF 2021

Smt. Supriya Dhar.

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

WA NO.282 OF 2021

Smt. Aparna Saha

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent (s)**

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

For the Respondent(s) : Mr. B. Majumder, Deputy SGI
Mr. K. De, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 02.08.2023.

Whether fit for reporting : YES.

**HON'BLE MR JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH**

JUDGMENT AND ORDER(ORAL)

T. Amarnath Goud(J)

All these appeals have been filed under Article 226 of
the Constitution of India read with Chapter VA Rule 2(2) of the

Gauhati High Court Rules, as applicable against the Order dated 08.01.2021 passed by the Hon'ble Single Judge in WP(c) No.819 of 2020 and a bunch of other writ petitions.

2. All these appeals arise out of common judgment. They have been heard together and disposed of vide common order dated 08.01.2021. For the sake of convenience let us consider the fact of WA No.279 of 2021 i.e. the writ petitioner of WP(C) No.819 of 2020.

3.1. In the writ petition, the petitioner i.e. the appellant herein prayed for a direction to the respondents to count 50% of the past service rendered by him as a Part-time teacher between 1995 to 2010 for the purpose of pensionary benefits. The petitioner-appellant joined as a Part-time teacher in Political Science at Government College on 13.01.1995. This engagement was for a period of 1(one) year. He would be paid an honorarium of Rs.30/- per lecture. His engagement was renewed from time to time and continued. In the year 1997, the honorarium being paid per lecture was increased from Rs.30/- to Rs.60/-. This pattern of engaging the petitioner-appellant and other similar lecturers in Government colleges continued year after year. In the year 2000, the Government of Tripura carried out a detailed exercise for assessment of the requirement of lecturers and the performance of the existing part-time contract teachers (lecturers) by framing

a scheme called Scheme for Engagement of Part-Time Contract Teachers. A screening committee would consider the suitability of the candidate based on written and oral examinations. The part-time contract teachers so engaged would be paid remuneration @ Rs.100/- per class. The number of classes would not exceed 36 per month and 360 per year. The petitioner-appellant was engaged under the said scheme under a letter dated 04.09.2000. His contract was renewed from time to time till the year 2009. Finally, under a memorandum dated 10.06.2010 issued by the Government of Tripura, the petitioner-appellant was offered appointment as a Post Graduate teacher in the Pay Band-2 in the pay scale of Rs.5310-24000/- with Grade Pay of Rs.2400/- per month. The petitioner-appellant accepted the appointment and he was appointed on 26.06.2010. The petitioner-appellant retired on superannuation w.e.f. 30.11.2019. As per his regular service from the date of appointment as a Post Graduate Teacher till retirement, the petitioner-appellant had not completed 10 years of qualifying service for pension which is a minimum service required for drawing pension under CCS (Pension) Rules, 1972.

Under such circumstances, the request of the petitioner-appellant is that the past service put in by him as a contractual teacher from the year 1995 till 2010 should be given weightage for the purpose of drawing the pension.

3.2. The Hon'ble Single Judge after hearing both the parties, vide common Order dated 08.01.2021 dismissed the said petition along with a bunch of similar writ petitions. Against the said common Order dated 08.01.2021, the petitioners therein have filed these present appeals seeking to set aside the impugned order and pass any other order/orders as this Court deems fit and proper.

4. Heard Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the appellants as well as Mr. K. De, learned Addl. G.A. appearing for the State-respondent and Mr. B. Majumder, learned Deputy SGI appearing for the Union-respondent.

5. Mr. Roy Barman, learned Sr. counsel submits that Hon'ble Single Judge failed to consider the fact that the appellants were brought to the regular establishment while the appellants were serving as Part Time Contract Teachers. Therefore, there is no reason not to add 50% of the past service before regular appointment for the purpose of pension & other pensionary benefits. Learned Sr. counsel submits that the Government has taken a policy decision wherein 50% of past service for the purpose of pension and other pensionary benefits be taken into account in the case where Part-time and DRW employees are brought on the regular establishment. Learned Sr. counsel further

submits that their case is a deserving case for relaxation under Rule 88 of the CCS (Pension) Rules so that his clients can get the benefit of relaxation.

6. Heard both sides and perused the evidence on the record.

7. The learned Single Judge vide common order dated 08.01.2021 dismissed all the appeals in the following terms:-

"In my view though it may be a case of harsh realities, the petitioners have not made out any case in law. As is well settled, right to receive pension flows from the rules, regulations of the pension scheme that may have been framed by the Government. In the present case we are governed by CCS (Pension) Rules which admittedly require minimum of 10 years of regular service for pension. The service put in by the petitioners prior to their regular engagement in the year 2010 was not pensionable service. Unless and until the Government issues a circular treating such service or part thereof as pensionable, there is no basis for the Court to give any directions to do so. The circulars brought to my notice all referred to contingent staff who render service in the nature of daily wages and are Group-D staff doing odd jobs such as gardening, sweeping, peon's work etc. The petitioners were engaged as contractual teachers/lecturers and were paid honorarium per lecture basis. Their service was not regular. Before closing, I can only observe that nothing stated in this order would prevent the Government on its own from taking a decision in favour of the concerned teachers.

Under the circumstances, no case for issuing any direction to the respondents is made out.

All the petitions are, therefore, dismissed. Pending application(s), if any, also stands disposed of."

8. The impugned order passed by the learned Single Judge is just and proper and there is no scope of interference. Learned Single Judge also observed that the said impugned Order would not prevent the Government on its own from taking a decision in favour of the appellants.

9. This Court is conscious of its powers to interfere with the Act, Rules and policy of Government, unless it is proved contrary to settled law & Constitution. In the present case, the appellants are falling short of few months for 10 years and thus they are not eligible to claim the pension as per the Rules. This Court has no power to relax in the given case in favour of the petitioner. There is no yard stick to relax for a given shortfall to fill up. In view of the same, the case of the appellants cannot be considered. The case is devoid of merits. No. case has been made out under law seeking interference of this Court.

10. In view of such circumstances, the impugned common Order dated 08.01.2021 passed by the learned Single Judge is upheld and the present appeals are dismissed.

11. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

JUDGE

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