

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 851 OF 2021

Sri Sadhan Chandra Das Vrs. The State of Tripura & 4 Ors.

Present:

For the petitioner (s) : Mr. A.K. Pal, Advocate.

For the respondent (s) : Mr. D. Bhattacharya, G.A.
Mr. S. Saha, Advocate.

HON'BLE MR.JUSTICE ARINDAM LODH

18.01.2023

Order

By filing the present writ petition, the petitioner has prayed for the following reliefs:

“Under the circumstances, it is humbly prayed that Your Lordship would be kind enough to;

(i) Admit the writ petition of the petitioner;

(ii) Issue notice upon the respondents;

(iii) Call for the relevant records from the custody of the respondents;

AND

(iv) After hearing the parties, Your Lordship would be kind enough to direct the respondents to provide the ACP II & III to the petitioner and Your Lordship also would be kind enough to direct the respondents and to provide up-grade the grade pay, salary, allowances etc. of the petitioner at per salary & pay of batch mates Sl. No.9, (Pay Bill Annexure C) Sri Haradhan Jamatia and Sl. No.28 Sri Shibu Ranjan Debnath for fair ends of justice and also direct the respondents to remove pay anomaly/disparity of the petitioner and enhanced the pay scale etc. of the petitioner and re-fixation and step up the pay and salary at par with ASI Sri Shibu Ranjan Debnath (Batch mates of the petitioner) w.e.f. 13/10/2006 for fair ends of justice.”

Heard Mr. A. K. Pal, learned counsel appearing on behalf of the petitioner. Also heard Mr. D. Bhattacharya, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the State-respondents.

At the very outset, Mr. Pal, learned counsel for the petitioner has withdrawn the claim for providing the benefits of ACP-II to the petitioner because the petitioner was given promotion when his turn came up for granting ACP. So, as per ROP Rules, if promotion is availed to a Government employee, then, he/she will not be entitled to ACP. However, the petitioner has prayed for granting him the benefits of ACP-III which he was entitled during his service tenure under the employer as he completed 25 years of service before the date of his superannuation. The petitioner entered into the service along with his some other batch mates. From the pay bill of the month of April 2019, it is seen that the name of the petitioner appears at Sl. No.22 and the names of his batch mates namely, Haradhan Jamatia, Shibu Ranjan Debnath, Sri Dulal Chandra Saha, and Sri Maminur Rahaman were shown to be given higher pay scale as on 16.04.2019. So, the petitioner also claimed the same benefits as provided to Shibu Ranjan Debnath and others.

A comparative chart of pay scales has been projected in the counter affidavit filed by the respondents wherefrom it is found that the statements made by the petitioner are correct. It is averred that while he was drawing the pay as on 01.07.2019 at Rs.42,000/- at the time of superannuation on 30.04.2020, Sri Dulal Chandra Saha was receiving pay for Rs.43,300/-. Similar position is in the case of Maminur Rahaman and Sri Haradhan Jamatia.

The respondents at Para 9 of their counter affidavit have stated that according to the service records, the petitioner and Sri Dulal Chandra Saha, Shibu Ranjan Das, Haradhan Jamatia and Maminur Rahaman were drawing the same pay at Rs.42,000/- w.e.f. 01.07.2019 in the same level

and Cell under the TSCS(RP) Rules,2017 read with its 1st Amendment Rule, 2018. So, according to the respondents, the claim of the petitioner is not justified.

However, from the chart which they projected in the counter affidavit, it comes to fore that while the petitioner was drawing the pay of Rs.42,000/- as on 01.07.2019 his batch mates who also appear to be his junior were drawing higher pay i.e. at Rs.43,300/-.

This is a clear anomaly and for this reason, I direct the respondents to correct/remove the anomaly and grant similar pay benefit to the petitioner as that of the persons mentioned above. It is made clear that under no circumstances, a senior official will get lesser pay than that of his junior officials which happened in this case. Though the petitioner and the persons mentioned here-in-above are of batch-mates, but, from the pay bills it appears that the petitioner is the senior than that of all the persons named above except Haradhan Jamatia.

It is further directed that the respondents shall grant ACP-III which he was denied even after completion of 25 years of service before the date of his superannuation. The entire exercise shall be made within a period of three months from today. The pay fixation shall be made notionally.

With the above observations and directions, the instant writ petition accordingly stands allowed and disposed.

JUDGE