

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 965/2022**

Smt. Muktalata Debnath and anr. -----Petitioner(s)
Versus
The State of Tripura and 5 ors. -----Respondent(s)

For Petitioner(s)	:	Ms. A. Debbarma, Advocate
For Respondent(s)	:	Mr. D. Sarma, Addl. GA
		Mr. N. Majumder, Advocate

**HON'BLE MR. JUSTICE ARINDAM LODH
Order**

17/07/2023

Heard Ms. A. Debbarma, learned counsel appearing for the petitioners. Also heard Mr. D. Sarma, learned Additional GA appearing for the respondents-State and Mr. N. Majumder, learned counsel appearing for the respondents-TSECL.

By means of filing this writ petition, the petitioners have prayed for their upgradation. The petitioners were engaged as Part Time Workers ('PTW', for short) in the year 2002. There is a policy framed in the year 2012, that all PTWs who have completed 10 (ten) years of services shall be upgraded as Daily Rated Workers ('DRW', for short). Both the petitioners had completed their ten years of services as PTWs in the year 2012 itself. They have submitted representations for upgradation of their services to the post of DRWs, but those representations were not considered till today. At last, having received no response to the requests for upgradation of their posts as DRWs, the

petitioners have approached this court by way of presenting the instant writ petition.

Ms. Debbarma, learned counsel have submitted that the petitioners accrued their rights to be upgraded to the post of DRWs in the year 2012 itself after completion of ten years of their services in terms of the Memorandum dated 07.11.2012 issued by the respondents, but the respondents failed to consider the upgradation of the petitioners to the posts of DRWs. Ms. Debbarma, learned counsel, has urged this court to pass a direction upon the respondents directing them to upgrade the services of the petitioners to the post of DRWs. Ms. Debbarma, learned counsel has also relied upon an order dated 25.04.2022 passed by this court in WP(C) 649 of 2021, wherein this court had passed a direction to consider the upgradation of the petitioners from PTW to DRW. Since the petitioner in that writ petition had completed ten years of service in pursuance of the memorandum dated 07.11.2012.

On the other hand, Mr. Sarma, learned Additional GA appearing for the respondents-State has submitted that all the memorandums including the Memo dated 07.11.2012 concerning to the regularization or upgradation of PTWs to DRWs have already been repealed by the State government in the year 2018, and at present there is no scheme available with the government to such upgradation of the petitioners.

Mr. Majumder, learned counsel for the respondents-TSECL has echoed the submissions made by learned Additional GA.

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

At the outset, I have perused the judgment dated 25.04.2022 passed by a Coordinate Bench of this court in WP(C) 649 of 2021, where the Coordinate Bench had directed the respondents to consider the upgradation of the petitioner of that writ petition.

After perusal of the said judgment, it is found that Memorandum repealing the policy decision dated 07.11.2012 was not placed before the court while disposing of W.P.(C) 649 of 2021. So, according to this court, this is a judgment *per incuriam* which may not be binding upon this court. Added to it, the petitioners might have acquired their rights for claiming upgradation in the year 2012 after completion of ten years of continuous service. They should have approached the court with their grievances within a reasonable period of time which may not be, in the nature of such case, more than 2 (two) years from the date of completion of ten years of their services, but they have approached this court only in the year 2022, after the lapse of ten years. Needless to say, that the petitioners were not diligent to pursue their case. Moreso, the memorandum dated 07.11.2012 has already been repealed by the government.

In view of this, the present writ petition is absolutely barred by the doctrine of delay and laches. However, since the petitioners have been discharging their duties as PTWs for the last two decades, I direct the

respondents to consider the case of the petitioners for upgradation to the post of DRWs sympathetically. According to this court, the petitioners deserve to get better remuneration for their services, they rendered for the last two decades. Such consideration may be made within a period of 2 (two) months from today.

With the aforesaid observations and directions, the instant writ petition stands disposed.

JUDGE

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