

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.997 of 2022

Nirmal Das,
S/O- Sri Krishna Chandra Das,
R/O- Village & P.O- Chowmuhani,
P.S- Melaghar, District- Sepahijala
Sub- Division- Sonamura, Pin- 799115, Age 37 years

....Petitioner(s)

Versus

1. The State of Tripura

To be represented by the Secretary, Education (School) Department, Government of Tripura New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN 799010

2. The Director, Secondary Education, Govt. of Tripura

Office Lane, Agartala, West Tripura

3. The Director, Elementary Education

Govt. of Tripura, Agartala, West Tripura

4. The Director of School Education

Government of Tripura, Agartala, West Tripura

5. The Secretary, Department of Finance, Govt. of Tripura

New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN 799010

....Respondent(s)

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. K. Nath, Advocate
For the Respondent(s)	:	Mr. D. Bhattacharjee, G.A. Mr. S. Saha, Advocate
Date of hearing and Delivery of Judgment & Order	:	27/06/2023
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT & ORDER (ORAL)

By means of filing this instant writ petition, the petitioner has prayed for following reliefs:

- “(i) *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to give the benefit of regular pay scale to the Petitioner w.e.f. the date on which the Petitioner completed 5 years Govt. service including the period served by the Petitioner as Typist(Bengali), Group C w.e.f. 03.02.2017 to 28.06.2021 and thereafter w.e.f. 29.06.2021 in the post of Graduate Teacher on fixed pay basis against the fixed pay posts created keeping in abeyance regular pay scale posts along with ancillary and consequential, pecuniary and non-pecuniary benefits.*
- ii. *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to strike down the following condition of the Memo, dated, 19.01.2021 i.e., offer of appointment of the Petitioner “Government servant joining service of the State Govt. on or after 01.07.2018 shall not be governed by the existing CCS(Pension) Rules, 1972 and orders issued there under from time to time. So far as their pension and other retirement benefits are concerned, they will be governed by a new set of pension scheme.”*
- iii. *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents, that, the Petitioner is covered by the Memo, dated, 28.11.2018, issued by the Finance Department(Pension Cell), Government of Tripura.*
- iv. *Make the rules absolute.*
- v. *Call for records.*
- vi. *Pass any further order/orders as this Hon'ble High Court considered fit and proper.”*

2. Facts of the case in brief, are that, initially the petitioner joined as Typist(Bengali), Group C, on fixed pay basis under the Directorate of Panchayat, Govt. of Tripura pursuant to memorandum dated 04.02.2017 . While he was discharging his duties and responsibilities as Typist(Bengali), the petitioner in pursuance of an advertisement applied for appointment to the post of Graduate Teacher after being duly obtained NOC issued by the Directorate of Panchayat, Govt. of Tripura.

3. The petitioner appeared in the selection process and ultimately, he was selected and appointed as Graduate Teacher under the respondents vide memorandum dated 19.01.2021(Annexure-4 to the writ petition) on fixed pay remuneration of Rs. 20,475/- per month. The petitioner reported his joining as Graduate Teacher, which was accepted on 29.06.2021.

4. While serving as Graduate Teacher under the respondents, the petitioner had submitted a representation dated 07.02.2022 praying for counting his past service and allowing him regular scale of pay as Graduate Teacher under the respondents. In the said representation, it was the contention of the petitioner that he had successfully completed 5 years of service as fixed pay employee without any service break, and thereafter, through a selection process he was appointed as Graduate Teacher and accordingly, he joined as Graduate Teacher under the respondents after submitting his technical resignation from his earlier department as Typist(Bengali). The said representation was not responded to by the respondents compelling him to file the present writ petition claiming the above reliefs.

5. Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharjee, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the respondents.

6. Mr. Roy Barman, learned senior counsel appearing for the petitioner has submitted that under the policy decision of the Government dated 22.12.2010, the services of the Government employees have to be regularized and they have to be given regular pay scale. Furthermore, they are entitled to regular pension and the Memorandum dated 28.11.2018 will not be applicable to the petitioner since he was appointed before the cut-off date under the said memorandum wherein the government had withdrawn/cancelled the policy of granting pension to its employees. Mr. Roy Barman, learned senior counsel has pressed into service a judgment passed by a Coordinate Bench of this Court (*A. Kureshi, C.J. as he then was*) wherein it was held that the past service of the State Government employees has to be counted for the purpose of granting regular pay scales.

7. Learned G.A. has not opposed the prayers of the petitioner in view of the judgment passed by the Coordinate Bench in ***WP(C) No.234 of 2020 titled as Tarendra Reang and Ors. Vs. The State of Tripura and Ors.***, along with other connected writ petitions.

8. Since the issue raised in this writ petition is settled by now, I direct the respondents to count the period of his past service the petitioner rendered under the Directorate of Panchayat for the purpose of granting regular pay scale to the petitioner.

The petitioner is also entitled to regular pension under the CCS (Pension) Rules, 1972, which is also admitted by the State-respondents at para-14 of the counter-affidavit. Para-14 may be re-produced here-in-below:-

“14. That, with respect to paragraphs-22 & 23, I say that the petitioner joined in service before 29.06.2021 and his service will be governed by the CCS(Pension) Rules, 1972 as adopted in the State of Tripura in terms of the Memo dated 28.11.2018.”

9. In view of this, it is made clear that Memorandum dated 28.11.2018 issued by the Finance Department, Government of Tripura shall not be applicable to govern the service benefits including pension of the petitioner.

10. Accordingly, I direct the respondents to grant regular pay scale to the petitioner with effect from the date on which he had completed 5(five) years of service as fixed pay employee that will include the period of past service he had served under the Directorate of Panchayat. The respondents are further directed to release arrears of pay and regularize all other consequential service benefits to the petitioner within a period of 2(two) months from the date of receipt of a copy of this order.

11. With the above observations and directions, the writ petition stands allowed and thus disposed of.

Pending application(s), if any, shall also stand disposed.

SAIKAT KAR

Rohit

Digitally signed
by SAIKAT KAR
Date: 2023.07.07
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JUDGE