

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 1110/2022**

Sri Gouranga Malakar and anr.

----Petitioner(s)

Versus

The State of Tripura and 2 ors.

----Respondent(s)

For Petitioner(s)	:	Ms. N. Ghosh, Advocate
For Respondent(s)	:	Mr. K. De, Addl. GA

HON'BLE MR. JUSTICE ARINDAM LODH
Order

03/07/2023

Heard Ms. N. Ghosh, learned counsel for the petitioner. Also heard Mr. K. De, learned Additional GA appearing for the respondents-State.

It is the case of the petitioners that the petitioner no. 1 was engaged as Casual worker w.e.f. 01.12.2005 and the petitioner no. 2 was engaged as Casual worker w.e.f. 01.01.2007. Under the policy decision of the Government of Tripura vide Memorandum dated 21.01.2009, the services of the petitioners had to be regularized on completion of ten years of their services. The petitioners had completed ten years of services in the year 2015 and 2017 respectively, but their services have not been regularized. They have submitted representations, but those were not responded to by the respondents. Being aggrieved, the petitioners approached this court by way of filing a writ petition, which was registered as WP(C) 837 of 2021. While disposing of the said writ petition, vide order dated 27.06.2022, this court had passed the following order:

"These instant writ petitions are disposed of directing the respondents to consider the representation dated 16.08.2021 made by the petitioner no. 1

and representation dated 02.09.2021 made by the petitioner no. 2 before the respondents for the purpose of regularization within a period of 2 (two) months from the date of receipt of the copy of this order. The said application shall be considered in accordance with law and the decision shall be communicated to the petitioners.”

Thereafter, the petitioners had submitted representations on 04.07.2022. In response to the said representations, the Additional Secretary, Tripura Legislative Assembly, vide Memorandum dated 24.11.2022 communicated to the petitioners that their representations had been considered by the Secretariat, Tripura Legislative Assembly, and after due examination, the matter had been referred to the Finance Department, Government of Tripura through Parliamentary Affairs Department, Government of Tripura for obtaining suitable decision in the matter. Thereafter, the Additional Secretary, Tripura Legislative Assembly, vide Memorandum dated 24.11.2022 informed the petitioners that after careful examination, their representations for regularization had been rejected.

Ms. N. Ghosh, learned counsel for the petitioners has drawn my attention to the advertisement dated 02.12.2022 issued by the Secretary, Tripura Legislative Assembly, wherein applications are invited from bonafide citizens of India to fill up the posts of Group ‘C’. According to learned counsel for the petitioners, until and unless the services of the petitioners are regularized, no fresh appointments should be made by the respondents.

I have given my thoughtful consideration to the said submission advanced by learned counsel for the petitioner.

It is true that the petitioners had completed ten years of services during existence of the policy issued by the Government of Tripura vide Memorandum dated 21.01.2009. So, the claim of the petitioners for regularization of their services has become matured before repealing of the said policy in the year 2018. The right of the petitioners to claim regularization was ripe prior to the repealing date of the said Memorandum dated 21.01.2009.

In view of this, I repel the submission of learned counsel for the respondents to the effect that the petitioners have no right to claim regularization of their services since the Memorandum dated 21.01.2009 has already been repealed when they have agitated their claims before this court.

The second fold of argument advanced by learned counsel for the petitioners that until and unless the services of the petitioners are not regularized, the respondents cannot initiate any fresh recruitment process on regular basis, in my opinion, cannot be accepted.

It is settled proposition of law that regularization or absorption is not a matter of right. It is a right to be considered by the employer subject to availability of vacancy in the post they hold and other factors, the respondents herein. The right of the petitioner no. 1 to claim

regularization was matured in the year 2015 and that of the petitioner no. 2 was matured in the year 2017, but they have approached this court firstly in the year 2021. They have not come forward before this court at a reasonable period of time. In addition, there was complete ban on engagement of DRWs/Casual/Contingent workers after the cut-off date 31.03.2003 as stipulated under the Memorandum dated 21.01.2009 without concurrence of the Finance Department, Government of Tripura. Added to it, there was no concrete proof that the petitioners were engaged with the concurrence of the Finance Department, Government of Tripura.

Learned counsel for the respondents has further submitted that at present there is no scheme for regularization of services of any DRWs/Casual/Contingent workers.

However, I direct the respondents to consider the claim of the petitioners for regularization of their services since their claims for regularization were matured before the date of repealing of the Memorandum dated 21.01.2009, if clear vacancies exist in the post, which they are holding at present.

With this observation and direction, the instant writ petition stands disposed.

JUDGE