

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.04 of 2023

Sri Keshab Karmakar
.....Appellant(s);
Versus
The State of Tripura & others
.....Respondent(s).

WA No.05 of 2023

Sri Swapan Kumar Shill
.....Appellant(s);
Versus
The State of Tripura & others
.....Respondent(s).

WA No.08 of 2023

Sri Priyalal Debnath
.....Appellant(s);
Versus
The State of Tripura & others
.....Respondent(s).

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate.
For Respondent(s) : Mr. Kohinoor N. Bhattacharyya, G.A.,
Ms. K. Reang, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

19/03/2024

Heard Mr. P. Roy Barman, learned senior counsel for the appellants and Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State.

These three writ appeals though arise out of different impugned orders dated 28.11.2022, 30.11.2022 & 28.11.2022 passed by the learned Writ Court in different writ petitions being WP(C) No.1015/2022, WP(C) No.1035/2022 and WP(C) No.1016/2022 respectively, but the cause of action raised by the petitioners are same and all of them seek regularization in service from the status of Permanent Labourer that they are enjoying. Therefore, these appeals have been tagged together and are being decided by this common order.

Respondents were asked to file Counter Affidavit but despite sufficient time, they have failed to do so as though Mr. Kohinoor N. Bhattacharyya, learned Government Advocate had received some instructions, but they are not adequate. On the basis of present instructions, he submits that the memorandum dated 12.08.2014 has been repealed.

However, adjudication of the issue at hand need not be kept pending in absence of the Counter Affidavit of the respondents in view of the following reasons:

It is not in dispute that all the petitioners/appellants herein have completed 7 years of service as Permanent Labourer and total 15 years counting together the period of their engagement as Casual Labourer and Permanent Labourer. For the sake of convenience, the relevant documents from WA No.04/2023 are being referred to. Annexure-4 is the Tripura Government Sericultural Permanent Labourers (Recruitment and Condition of Services) Rules, 1985 notified on 18.01.1986. These rules however do not deal with the regularization of Permanent Labourers under the Sericulture Department. It only provides for granting status of Permanent Labourer to those labourers working in the department continuously for preceding three years and 240 days in each year with effect from the date of commencement of the Rules. A Permanent Labourer is required to work for eight hours in a day in one or two shifts.

The appellants have based their claim for regularization upon memorandum dated 12.08.2014 [Annexure-6] which provides for reduction of minimum length of service required for regularization of Permanent Labourers to the post of Farm Worker from existing 10(ten) years to 7(seven) years. The Finance Department, Government of Tripura has advised the concerned department to approach the Council of Ministers with comprehensive proposals for

regularization of such Permanent Labourers who had served minimum period of 15 years including the service period as Casual Workers or Daily Rated Workers of which at least 7 years service length should be as Permanent Labourers.

The learned Single Judge, by the impugned orders passed in the respective writ petitions, has dismissed the writ petitions as there is no policy of the government for regularization. It is pertinent to refer to the memorandum dated 13.11.2019 issued by the Finance Department, Government of Tripura a copy whereof is being placed on record which refers to the policy decision on regularization of services of Permanent Labourers in the post of Farm Worker. It is extracted hereunder:

“No.F.10(2)-FIN(G)/2008(Part)
GOVERNMENT OF TRIPURA
FINANCE DEPARTMENT
AGARTALA, TRIPURA

Dated, Agartala, the 13th November, 2019

MEMORANDUM

Subject: Policy decision on regularization of services of Permanent Labourer in the post of Farm Worker.

Finance Department has issued instruction for reduction of service required for regularization of Permanent Labourer in the post of Farm Worker from existing 10(ten) years to 7(seven) years vide Memo No.F.10(2)-FIN(G)/2008(Part) dated 12th August, 2014.

2. Recently, the matter has been further reviewed. It has been observed that there are some shortcomings in these instructions for regularization of services of Permanent Labourer affecting institutional efficiency and individual productivity due to different reasons.

3. With a view to ensure transparent public employment policy for engagement of staff for such services, the memorandum as mentioned above and any other Memo. on the same subject are repealed.

4. All concerned are requested to ensure strict implementation of above decision with immediate effect.

(G. Das)
Under Secretary to the
Government of Tripura”

This memorandum clarifies that the memorandum dated 12.08.2014 and any other memorandum on the same subject are repealed. Concerned departments have been requested to ensure strict implementation of the above decision with immediate effect. In that way, there is no scheme in

existence which allows for regularization of Permanent Labourers as Farm Workers.

Mr. P. Roy Barman, learned senior counsel for the appellants, submits that since these writ petitioners/appellants herein have been working for long, they may be allowed an opportunity to seek regularization before the competent authority.

Without observing anything on the merits of such a prayer, we leave it to the petitioners/appellants herein to approach the competent authority with any such representation which may be considered in accordance with law. However, this Court in view of the repeal of the memorandum dated 12.08.2014 vide memorandum dated 13.11.2019 is not in a position to issue any specific direction for regularization of the petitioners/appellants herein as Farm Workers. Reference is also made to the judgment and order passed by the Division Bench of this Court in the case of *The State of Tripura & others v. Smt. Suprava Debnath* in *WA No.112 of 2022* wherein this court has declined to issue any direction for regularization in case of persons who have approached this Court much after the repeal of the Regularization Scheme by Notification dated 31.07.2018. As such, we do not find any merit in these appeals.

Writ appeals are accordingly dismissed with the aforesaid observations. Pending application(s), if any, shall stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ