

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 121/2024**

1. **Sri Kalyanbrata Bhattacharjee**, S/O late Bhabatosh Bhattacharjee, resident of Kailash Dham, Joynagar, Akhaura road, P.O. Agartala-799001, P.S. West Agartala, District- West Tripura
2. **Sri Sankar Gupta**, S/O late Supati Gupta, resident of Sncase royal, Flat No. 2G, Tower II, Elaichi More 620, S.N. Ghosh Avenue, P.O. Narendrapur, Kolkata, P.S. Narendrapur, Kolkata, Pin- 700103.
3. **Sri Sumit Bhattacharjee**, S/O Sri Ashutosh Bhattacharjee, resident of Old Kalibari Road, Krishnanagar, Agartala, District- West Tripura, Pin- 799001.
4. **Sri Sumendra Das**, S/O Sri Jogendra Chandra Das, resident of Town Pratapgarh, Central Road Extension, Agartala, District- West Tripura, Pin- 799001.
5. **Sri Nilanjan Biswas**, S/O Sri Anukul Chandra Biswas, resident of village & P.O. Rajarbag, Udaipur, District- Gomati, Tripura.
6. **Sri Dipak Bhowmik**, S/O Sri Dharendra Chandra Bhowmik, resident of village- Dighalia, P.O. Agartala-799009, P.S. Airport, District- West Tripura.

..... PETITIONER

Versus

1. **The State of Tripura**, represented by the Secretary cum Commissioner, Government of Tripura, Department of Power, P.O. Kunjaban, P.S. NCC, District- West Tripura, 799001.
2. **The Commissioner & Secretary**, Department of Power, Government of Tripura, New Secretariat Complex, Gorkhabasti, P.O. Kunjaban, P.S. NCC, District- West Tripura, 799001.
3. **Tripura State Electricity Corporation Limited**, represented by its Chairman cum Managing Director, Corporate Office, Bidyut Bhavan, North Banamalipur, P.O. Agartala, P.S. East Agartala, District- West Tripura.
4. **The Chairman cum Managing Director**, Tripura State Electricity Corporation Limited, Corporate Office, Bidyut Bhavan, North Banamalipur, P.O. Agartala, P.S. East Agartala, District- West Tripura.
5. **The Deputy General Manager (Corporate)**, Tripura State Electricity Corporation Limited, Corporate Office, Bidyut Bhavan, North Banamalipur, P.O. Agartala, P.S. East Agartala, District- West Tripura.
6. **The Secretary cum Commissioner**, Finance Department, Government of Tripura, P.O. Kunjaban, P.S. New Capital Complex, District- West Tripura.

-----Respondent(s)

For Petitioner(s)	:	Mrs. S. Deb (Gupta), Advocate
For Respondent(s)	:	Mr. D. Sarkar, Advocate Mr. K. Deb, Advocate
Date of hearing & delivery of judgment	:	16.08.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE ARINDAM LODH
Judgment & Order (Oral)

16/08/2024

Heard Mrs. S. Deb (Gupta), learned counsel appearing for the petitioners as well as Mr. D. Sarkar, learned counsel appearing for respondents no. 1, 2 and 6, and Mr. K. Deb, learned counsel appearing for the respondents no. 3, 4 and 5.

2. By means of filing the instant writ petition, the petitioners have prayed for the following reliefs:

- “i) Admit this petition of the petitioners and call for records relevant to the subject matter from the custody of the respondents;**
- ii) Issue Writ in the nature of Mandamus and/or any other order/orders/direction/directions of like nature whereby directing the respondents to comply the common judgment and order dated 03.03.2021 passed in WP(C) 488 of 2019, 489/2019, 490/2019, 491/2019, 492/2019, 493/2019, 494/2019, 495/2019, 496/2019, 497/2019 and 498/2019.**
- iii) Issue Writ directing the respondents to grant 3rd MACP completion of 25 years of continuous satisfactory service respectively as TPES Grade V(A) Engineering Service with notional fixation as per Revised pay ROP Rules, 2017 read with its 1st amendment Rules, 2018 (Level-14, Cell-20) and financial benefit with effect from 25.03.2016 as per the common judgment and order dated 03.03.2021 passed in WP(C) 488 of 2019, 489/2019, 490/2019, 491/2019, 492/2019, 493/2019, 494/2019, 495/2019, 496/2019, 497/2019 and 498/2019.**
- iv) Issue Writ directing the respondents to grant 3rd MACP completion of 25 years of continuous satisfactory service for the petitioner No.-1 as on 09.09.2017, petitioner No.2 as on 09.09.2017, petitioner No.-3 as on 09.09.2017, petitioner No.-4 as on 15.09.2017, petitioner No.-5 as on 07.07.2017 and petitioner No.-6 as on 08.07.2017 respectively as TPES Grade V(A) Engineering Service with notional fixation as per Revised pay ROP Rules, 2017 read with its 1st amendment Rules, 2018 (Level-14, Cell-20) and financial benefit with effect from 25.03.2016 as per the common judgment and order dated 03.03.2021 passed in WP(C) 488 of 2019, 489/2019, 490/2019, 491/2019, 492/2019, 493/2019, 494/2019, 495/2019, 496/2019, 497/2019 and 498/2019.**
- v) Pass such other or further order/orders and directing/directions as to your Lordship deem fit and proper having regard to the facts and circumstances of the case.”**

3. Mrs. Deb (Gupta), learned counsel for the petitioners have submitted that the present writ petition is squarely covered by the judgment and order dated 03.03.2021 passed in W.P(C) 488 of 2019, titled as Sri Kalyanbrata Bhattacharjee vs. State of Tripura & others (Annexure 5 to the writ petition). Learned counsel for the petitioners has also submitted that the reliefs claimed for by the present writ petitioners in this writ petition are also covered by the Order dated 24.02.2023 passed in W.P(C) 993 of 2022, titled as Sri Paritosh Majumder and ors. vs. The State of Tripura and ors. (Annexure 8 to the writ petition). The crux of submission of learned counsel appearing for the petitioners is that the petitioners are entitled to 3rd ACP which is arbitrarily withheld by the respondents.

4. On the other hand, Mr. Deb, learned counsel appearing for the respondents no. 3, 4 and 5 has submitted that in W.P(C) 488 of 2019 (supra), this court directed the respondents to pay the 2nd ACP to the petitioners which had to be fixed notionally. Mr. Deb, learned counsel has specifically drawn my attention to a very significant observation of this court, that *"whether the petitioners are entitled to further upgradation, that will be determined by ROP Rules, 2017, as the petitioners are not entitled to 3rd ACP in terms of Rule 10(2) of the ROP Rules, 2009"*. According to learned counsel for the respondents, this observation is *per se* relevant to decide the merits of the writ petition, on the basis of which he has argued that the petitioners are not entitled to 3rd ACP.

5. I have perused the records and considered the submissions advanced by learned counsel appearing for the writ petitioners as well as submissions advanced by learned counsel for the respondents. In my opinion, this is a fit case to relegate the matter to the competent authority to consider the various aspects of granting 3rd ACP to the writ petitioners in the light of ROP Rules, 2017. Accordingly, the reliefs claimed by the petitioners are remitted to the respondents for consideration in accordance with relevant rules and the judgments, referred to by learned counsel appearing for the writ petitioners. It is made clear that the entire process shall be completed within 3 (three) months from the date of receipt of copy of this order.

6. In the light of above, the instant writ petition stands disposed.

JUDGE

SAIKAT KAR

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