

IN THE HIGH COURT OF TRIPURA
A G A R T A L A

W.P.(C) No.195 of 2024

Smt. Pratima Bhattacharjee,
wife of Sri Kaushik Chakraborty,
resident of Bhati Abhoy Nagar,
Agartala, West Tripura,
Pin-799001 (Age 44 years).

..... **Petitioner**

– **V e r s u s** –

1. **The State of Tripura,**
to be represented by the Principal Secretary,
Department of School Education, Government
of Tripura, New Secretariat Building, New
Capital, Complex, Kunjaban, PS-New Capital
Complex, Agartala, West Tripura, Pin-799010.
2. **The Director of Elementary Education,**
Government of Tripura, Office Lane, Agartala,
West Tripura, Pin-799001.
3. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat
Building, New Capital Complex, Kunjaban, P.S.
New Capital Complex, Agartala, West Tripura,
Pin-799010.

..... **Respondents**

W.P.(C) No.196 of 2024

Sri Naruttam Pal,
Son of Sri Gourangal Pal,
Resident of Town Pratapgarh,
Road No.1, Agartala, West Tripura,
Pin-799001 (Age-49 years).

..... **Petitioner**

– **V e r s u s** –

1. **The State of Tripura,**
to be represented by the Principal Secretary,
Department of School Education, Government
of Tripura, New Secretariat Building, New
Capital, Complex, Kunjaban, PS-New Capital
Complex, Agartala, West Tripura, Pin-799010.
2. **The Director of Elementary Education,**
Government of Tripura, Office Lane, Agartala,
West Tripura, Pin-799001.

3. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat
Building, New Capital Complex, Kunjaban, P.S.
New Capital Complex, Agartala, West Tripura,
Pin-799010.

..... Respondents

W.P.(C) No.197 of 2024

1. **Sri Naresh Chandra Das,**
Son of late Sudhir Chandra Das,
Resident of village Barakmura,
P.O. Kemtali, Melaghar,
Sepahijala, Tripura, Pin-799115,
(Age- 53 years).

2. **Sri Tamal Das,**
Son of late Jayanta Kr. Das,
Resident of village Paschimganki,
P.O. Khowai Court,
Khowai, Tripura,
Pin-799202 (Age 47 years).

3. **Prasanta Modak,**
Son of late Pramod Modak,
Resident of Bankar, Khowai,
Tripura, Pin-799201,
Age- 55 years.

4. **Ajoy Sinha,**
Son of late Bhupendra Ch. Sinha,
Resident of Math Chowmuhani,
Near- Bank of Baroda, Agartala,
West Tripura, Pin-799001.

..... Petitioner

- Versus -

1. **The State of Tripura,**
to be represented by the Principal Secretary,
Department of School Education, Government
of Tripura, New Secretariat Building, New
Capital, Complex, Kunjaban, PS-New Capital
Complex, Agartala, West Tripura, Pin-799010.

2. **The Director of Elementary Education,**
Government of Tripura, Office Lane, Agartala,
West Tripura, Pin-799001.

3. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat
Building, New Capital Complex, Kunjaban, P.S.
New Capital Complex, Agartala, West Tripura,
Pin-799010.

..... Respondents

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,
Mr. Dipjyoti Paul, Advocate.

For the respondent(s) : Mr. Dipankar Sharma, Addl. GA.

Date of hearing & delivery
of Judgment & Order : ***21st September, 2024***

Whether fit for reporting : **YES.**

HOB'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
JUDGMENT & ORDER (ORAL)

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel and Mr. Dipjyoti Paul, learned counsel appearing for the petitioners. Also heard Mr. D. Sharma, learned Additional Government Advocate appearing for the State-respondents.

[2] All these writ petitions are being heard and decided with the consent of the parties by this common judgment as their cases stand on equal footing. Counter affidavits have been filed in the first two writ petitions i.e. WP(C) No.195 of 2024 and WP(C) No.196 of 2024 but the stand of the respondent-State has been adopted by the learned counsel for the State in the third writ petition being WP(C) No.197 of 2024 as all relevant facts and legal issues are common in all the writ petitions. For convenience sake, the relevant facts and annexures in WP(C) No.195 of 2024 are being referred to.

[3] Petitioner, namely, Smt. Pratima Bhattacharjee claims the benefit of past service for the purposes of seniority, pension and all other purposes including pay protection by counting her past services *with effect from 26th August, 2010 to 31st March, 2020* while she was working as a Postgraduate Teacher before she was appointed as a Graduate Teacher on 19th December, 2022; petitioner, Sri Naruttam

Pal in WP(C) No.196 of 2024 claims the benefit of past service for the purposes of seniority, pension and all other purposes including pay protection by counting his past services *with effect from* 21st May, 2010 to 31st March, 2020 while working as a Graduate Teacher till he was appointed as an Undergraduate Teacher on 8th November, 2022; petitioners, namely, Sri Naresh Chandra Das, Sri Tamal Das, Sri Prasanta Modak and Sri Ajoy Sinha in WP(C) No.197 of 2024 claim the benefit of past service for the purposes of seniority, pension and all other purposes including pay protection by counting their past services *with effect from* 21st May, 2010 to 31st March, 2020 while working as a Graduate Teacher on 19th December, 2022.

[4] The *ad hoc* services of such teachers whose appointments were set aside in WP(C) No. 51 of 2014 [*Tanmoy Nath & Ors. Vs. State of Tripura & Ors., decided on 07.05.2014 reported in (2014) 2 TLR 731*] were terminated by Memo dated 31st March, 2020 [Annexure-5] issued by the Directorate of Secondary Education, Tripura is extracted hereunder :

“No.F.1(1-46) SE/E(NG)/2017 (Vol-II)/48
Government of Tripura
Education (School) Department
Estt.(NG) Section
Directorate of Secondary Education

Dated, Agartala, the 31st March, 2020.

MEMO

The Services of Post Graduate Teachers and Graduate Teachers appointed in 2010 and Under Graduate Teachers' appointed in 2014 had come to an end on 31 December, 2017 (afternoon) vide Memo No.F.1(1-46)-SE/E (NG)/2017 (Vol-II) dated 23.12.2017 as per order of the Hon'ble High Court of Tripura in Case No. W.P(C) 51/2014 of Tanmoy Nath and others which was affirmed by the Hon'ble Supreme Court of India vide order dated 29.03.2017 in SLP(C) 18993-19049/2014.

Subsequently as per request of the State Government, the Hon'ble Supreme Court of India had permitted these teachers to continue on ad hoc basis for a period of 6(six) months w.e.f. 01.01.2018 vide order dated 14.12.2017 and on further request of the State Government, extension of ad hoc services of these teachers were allowed for a further period up to the academic session 2019-20 i.e. up to 31st March, 2020 vide order dated 01.11.2018.

In view of the above, the ad hoc services of above mentioned teachers are hereby terminated w.e.f. 31.03.2020 (Afternoon).

Sd/
(UK Chakma)
Addl. Secretary
to the Government of Tripura.”

[5] The *ad hoc* services of these writ petitioners came to an end on 31st March, 2020 in view of the common termination order issued by the respondent-State in the light of the extension granted by virtue of the interim orders passed by the Apex Court in SLP(C) No.18993-19049/2014. It is not in dispute that these writ petitioners were one of those 10,323 teachers whose appointments were set aside by the learned Division Bench of this Court in case of *Sri Tanmoy Nath and others* (supra). The claim for past service has been rejected in the individual cases of these writ petitioners vide memo dated 6th July, 2023 [Annexure-15] issued by the Directorate of Elementary Education, Tripura. The orders dated 6th July, 2023 have been passed in their individual cases pursuant to the directions passed in the respective writ petitions preferred by them being WP(C) No.642 of 2022 & others in case of Sri Naruttam Pal and others vide judgment and order dated 12th May, 2023. The learned Writ Court, without expressing any opinion on the merits of the case, had disposed of the writ petition giving liberty to the petitioners to approach the respondents by submitting an appropriate representation. The petitioners were also allowed liberty to place judgments, if any, in support of their case before the respondents. On receipt of the said representation, the respondents were directed to consider the same in accordance with law within a stipulated period of two months. Their claim for counting past service has been rejected apparently on the ground that there is no direction to condone the gap of non-working days between their past and present service in the light of the existing rules. Therefore, there was no question to consider the claim of these teachers for counting past service for the purposes of pay and pensionary benefits. Though the impugned orders have been passed on 6th July, 2023 but the writ petitioners approached this Court sometime on 11th March, 2024.

[6] The stand of the respondents contained in the counter affidavit referred from WP(C) No.195 of 2024 has been canvassed by Mr. Dipankar Sharma, learned Additional Government Advocate in opposition to the prayer. According to them, in view of the judgment and order of the Hon'ble Supreme Court dated 29th March, 2017 the time limit for completion of the new selection process was to be completed by 31st December, 2017. However, due to delay in completion of selection process, services of such teachers were extended till 31.03.2020 on ad hoc basis by virtue of order passed by the Apex Court on the interlocutory applications. In the meantime, some of the teachers whose services were affected by the judgment of *Tanmoy Nath's* case got selected under the fresh selection exercise and were appointed afresh during the period of their *ad hoc* service before 31st March, 2020. These teachers were allowed the benefit of past service as per the directions of this Court in paragraph 125 of the judgment and order dated 7th May, 2014 in *Tanmoy Nath* (supra) and the judgment and order dated 29th January, 2020 delivered in *WP(C) No.295 of 2019* in case of *Smt. Sangita Reang and others versus the State of Tripura and others*. Petitioners were terminated on 31st March, 2020 and appointed to the post of Graduate Teacher after 33 months of termination from erstwhile service. Therefore, their cases are not similar to that of *Smt. Sangita Reang and others* (supra). Petitioners have already received the benefit of encashment of earned leave to their credit and accumulated amount of GPF after the judgment of the Supreme Court in *Tanmoy Nath's* case. During their *ad hoc* service, their old service books were also closed. Their present service records are maintained in a new service book opened after their fresh appointment in November – December, 2022. Therefore, on this ground also, petitioners cannot claim benefit of past service of earned leave credit and GPF.

[7] The respondents have by way of a tabular chart drawn the distinction between the case of Smt. Sangita Reang and Sri Tanmoy Nath and the present petitioner, Smt. Pratima Bhattacharjee [WP(C)195/2024] the connected case i.e. Sri Narrutam Pal [WP(C) No.196 of 2024] and also adopted in the case of Sri Naresh Chandra Das and others [WP(C) No.197 of 2024]. Similar distinction has been drawn between the case of Sri Prasanta Pal and the present petitioners. The grounds of distinction vis-à-vis Smt. Sangita Reang & others and Sri Prasanta Pal is that the present petitioners have been appointed afresh after a break of 33 months after the termination of their *ad hoc* service on 31st March, 2020 and they are not similarly situated. When the petitioners were appointed, they were not in government service and could not claim equal treatment.

[8] On behalf of the petitioners, reliance has been placed on paragraph 125 of the judgment rendered by Coordinate Division Bench of this Court in case of *Sri Tanmoy Nath and others* (supra). Mr. P. Roy Barman, learned senior counsel for the petitioners submits that artificial distinction being drawn by the respondents-State to distinguish the case of the present petitioners with that of Smt. Sangita Reang & others and Sri Prasanta Pal is not correct on a plain reading of paragraph 125 of *Tanmoy Nath's* case which has been affirmed by the Apex Court. Paragraph 125 of *Tanmoy Nath's* case does not draw any distinction so far as conferring the benefit of past service is concerned amongst those who have been re-appointed whether before 31st May, 2020 or thereafter like the present petitioners. It is submitted that in the case of Smt. Sangita Reang & others also this Court did not lay down any cut-off date for reappointment to claim past service benefits in the light of paragraph 125 of *Tanmoy Nath's* case. In case of Smt. Sangita Reang & others versus State of Tripura and others, the learned Writ

Court devised three broad categories whose claim for benefit of past service could be considered in the light of paragraph 125 of the decision in *Tanmoy Nath's* case.

[9] The petitioners have also placed reliance upon the decision of the learned Writ Court in case of *Sri Uttam Kumar Das and others versus State of Tripura and others* in *WP(C) No.901 of 2021* and other analogous cases who had approached this Court for claiming benefit of past service. The learned Writ Court had vide judgment dated 20th May, 2022 directed the respondents to regularize the gap commencing from 1st April, 2020 till the date of joining of each of the said writ petitioners by deeming them to be in service and the non-working period meaning the gap period to be regularised by granting admissible non-paid leave. So far as the other benefits were concerned, it was directed that should be released in favour of the petitioners in terms of the directions in Smt. *Sangita Reang & others* (supra). Thereafter, the writ petitions preferred by the present writ petitioners were disposed of vide order dated 12th May, 2023 giving liberty to them to submit appropriate representation and with a direction upon the respondents to consider the same, in accordance with law within a period of two months. The petitioners also submitted joint representation which has been rejected by the impugned order dated 6th July, 2023 refusing to condone the gap of non-working days between their past and present service in the light of the existing rules.

[10] It is further submitted that the State of Tripura preferred writ appeals against the judgment rendered in WA No.167 of 2022 and other analogous writ appeals which have been decided by the Division Bench of this Court vide judgment dated 9th January, 2024. It is however submitted that the judgment rendered by this Court in WA No.304 of 2021 and others analogous appeals has

not dealt with the present situation arising out of the rejection of claim of past service of the petitioners herein. It is further submitted that the directions passed in paragraph 125 of the decision in *Tanmoy Nath* (supra) upheld up to the Supreme Court holds good. The subsequent decisions rendered in case of *Smt. Sangita Reang and others* (supra) and that of *WA No.304 of 2021* in case of *State of Tripura & others versus Smt. Tapati Debbarma* and other analogous appeals also do not dilute the ratio and import of the directions contained in paragraph 125 of *Tanmoy Nath's* case as per which petitioners are also entitled to claim the benefit of past service upon their re-appointment after having participated in the recruitment exercise for appointment of graduate teachers by the State of Tripura. The present petitioners are also one of those 10,323 teachers whose services were terminated by the decision of this Court in *Tanmoy Nath's* case and continued in employment on *ad hoc* basis till 31st March, 2020 pursuant to the extensions granted by the Apex Court from time to time. Therefore, the impugned order of rejection may be set aside.

[11] I have considered the submissions of learned counsel for the parties at length. I have also gone through the relevant pleadings and documents placed from record by learned counsel for the rival parties. Let it be indicated at this stage that the present controversy relating to claim of past service has not been raised before this Court for the first time. The claim of past service upon re-appointment of teachers whose services were terminated by virtue of the judgment in *Tanmoy Nath's* case is based upon the observations made in paragraph 125 of the judgment of the learned Division Bench of this Court in case of *Tanmoy Nath and others* (supra) which is usefully extracted hereunder :

"125. We would also like to make it clear that other than the benefits indicated by us above there can be no reservation/preference on the basis of age. There shall be no preference to dependent government servants or retired government employee or

retrenched employees etc. There can be no reservation for linguistic or religious minorities or on area wise basis. It is further made clear that if the persons who are selected in the previous selection are again selected then the service rendered by them earlier shall be counted for the purpose of seniority, pension and all other purposes."

[12] Some of the teachers who got reappointment approached this Court in WP(C) No.295 of 2019 and other analogous writ petitions led by the case of *Smt. Sangita Reang and others versus State of Tripura and others* which was decided by the Bench presided by the then Hon'ble Chief Justice vide judgment dated 29th January, 2020 (Annexure-9 to the writ petition). Perusal of the judgment shows that petitioners therein were appointed in the year 2017 and 2018 i.e. before 31.03.2020. They were working on such posts since then. Such appointments were made under separate advertisement issued by the Government of Tripura for filling up of teachers in all categories, such as, Undergraduate, Graduate and Postgraduate. They had applied after obtaining prior permission from the employer. Those petitioners approached this Court relying upon the observations made in paragraph 125 of the judgment in *Tanmoy Nath's* case after their selection in fresh selection process claiming protection of their past service. They also argued that their previous service rendered from 2010 onwards could not be wiped out in view of the observation contained in paragraph 125 of the judgment in *Tanmoy Nath* (supra).

[13] It is in this background that the learned Writ Court proceeded to categorise three different situations in which those petitioners would fall depending on the three broad categories. The three broad categories were as under:

"Factually, three different situations would arise and these petitions therefore would be bunched in such three broad categories. Category-I would be those cases where a teacher, who was previously selected and appointed on a particular post which selection and appointment was set aside by this Court in *Tanmoy Nath* (supra) is now through fresh selection process selected and appointed on the same post.

Category-II would be cases where a teacher, who was previously selected and appointed on a particular post which selection and appointment has been set aside by this Court in case of Tanmoy Nath (supra) is now selected and appointed through fresh selection process to a post higher than one which he previously held.

Category-III would be those cases where a teacher, who was previously selected and appointed on a particular post which selection and appointment has been set aside by this Court in case of Tanmoy Nath (supra), is pursuant to fresh selection process selected and appointed to a post lower than which he previously held.”

[14] The learned Court discussed the variance in the situation of these three categories and devised a principle as to how the benefit of past service as contemplated in paragraph 125 of *Sri Tanmoy Nath* (supra) could be conferred on them. Paragraph 30 of the judgment in *Smt. Sangita Reang and others* (supra) is extracted hereunder :

“30. Under the circumstances, petitions are disposed of with following directions:

(i) In case of Category-I cases, the petitioners shall receive full benefit of the past service for the purpose of seniority, pension and all other purposes.

(ii) In Category-II cases, past service rendered by the petitioners will be counted for the purpose of pension, pay fixation and all other purposes except for seniority. In other words, it is provided that the pay of these petitioners would be fixed in their respective posts pursuant to fresh appointments taking into account entire past service rendered by them and bearing in mind the principles contained in F.R.22 of the Fundamental Rules. However, their past service shall not count towards seniority. They would be placed at the bottom of seniority as on the date of their fresh appointments. It is clarified that these directions shall not enable any other teachers in the same cadre or any other cadre to claim upgradation of his/her pay by seeking removal of anomaly or in any other manner.

(iii) In Category-III cases, the petitioners’ past service would be counted for the limited purpose of retaining their leave credit, provident fund, pension and gratuity and further that they will be placed in the regular scale of pay from the date of their fresh appointment and the pay will be fixed at the minimum of the scale. They would receive all admissible allowances.”

[15] The directions in case of *Smt. Sangita Reang and others* have been complied with and also followed by the learned Single Judge of this Court in *Sri Prasanta Pal versus State of Tripura and others* [WP(C) No.381 of 2020] vide order dated 6th July, 2020. The controversy however did not die thereafter. It again came up before this Court through several writ petitions, such as one of *Sri Uttam Kumar Das and others versus State of Tripura and others* in WP(C) No.901 of 2021 and other analogous cases. The directions of the learned Writ Court in those

writ petitions have been referred to in the foregoing paragraphs whereby the State of Tripura was directed to regularise the gap commencing from 1st April, 2020 till the date of their joining by deeming them to be in service and the non-working period to be regularised by granting admissible non-paid leave [EOL]. Further, benefits were ordered to be released in favour of those persons in terms of the direction in **Smt. Sangita Reang** (supra). Those matters travelled up to the learned Division Bench of this Court, at the instance of the aggrieved State of Tripura, in WA No.304 of 2021 along with other analogous appeals from the judgment in other writ petitions including Sri Uttam Kumar Das's case. The writ appeals were disposed of vide judgment dated 9th January, 2024. Perusal of the judgment rendered by the learned Division Bench of this Court reveals that the petitioners in those appeals were reappointed after their *ad hoc* services were terminated on 31st March, 2020. It was, however, also pointed out on behalf of the State that there were few petitioners who did not continue in employment upon *ad hoc* extensions granted after 31st December, 2017 though they had participated in the fresh selection exercise and got reappointed in 2018.

[16] This Court, in the aforesaid background, was called upon to decide as to whether the benefit of past service could be accruable to those who were re-appointed after 31st March, 2020 once their *ad hoc* services came to an end. As it appears, in the case of Smt. Sangita Reang and others or that of Sri Prasanta Pal this issue of past service of those who had been reappointed after termination of their *ad hoc* services on 31st March, 2020 was not an issue. Those petitioners had been reappointed before termination of such teachers on 31st March, 2020 in different years, 2017, 2018 etc. Therefore, the set of writ petitioners in WA No.304 of 2021 and other analogous appeals were those who had been

reappointed after their *ad hoc* services were terminated by virtue of the judgment and order passed by the Apex Court on 31st March, 2020. In those circumstances, this Court after taking note of the legal position as it progressed staring from the observations made by the learned Division Bench of this Court in *Tanmoy Nath* (supra) at paragraph 125, the directions issued by the learned Writ Court in case of Smt. Sangita Reang and others (supra) vide judgment dated 29.01.2020 and also that of Sri Prasanta Pal versus State of Tripura and others vide judgment dated 6th July, 2020 in WP(C) No.381 of 2020 proceeded to hold as under:

“[17] The important rider for availing of such benefit as also observed in the case of Sangita Reang & others (supra) are twofold (i) that these candidates had continued in employment after 31st December, 2017 on *ad hoc* extensions till 31st March, 2020 and (ii) they had applied before the competent authority for participating in the fresh selection exercise. This Court is not required to enter into the scrutiny of claims of individual writ petitioners in these present batch of cases. The cases of individual writ petitioners would be examined by the competent authority under the Government of Tripura in the light of the principles discussed hereinabove. However, if individual writ petitioners satisfy the conditions prescribed hereinabove and also laid down in the case of Sangita Reang & others (supra), they would be entitled to the benefit of past service devised by the learned Court in the case of Sangita Reang & others (supra) depending upon which of the three categories they fall.

[18] Having held so, this Court deems it proper to direct the competent authority under the department to scrutinize the case of individual writ petitioners in the light of the principles laid down hereinabove and take a decision within a period of 3[three] months from the date of receipt of the copy of this judgment. Needless to say that the consequential benefits, if any, arising out of such decision shall flow in favour of the individual writ petitioners who satisfy the conditions prescribed hereinabove.

These batch of appeals and writ petition are disposed of in the aforesaid terms.

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

[17] The cases of the present petitioners are also one who have been reappointed after their *ad hoc* services were terminated on 31st March, 2020. These petitioners have been appointed sometime in November and December, 2022. The case of the present petitioners would, therefore, be covered by the ratio rendered by this Court in the case of *State of Tripura & others versus Smt. Tapati Debbarma* in WA No.304 of 2021 and analogous cases decided vide judgment dated 9th January, 2024. The learned Division Bench of this Court has at

paragraph 17 of the judgment laid the following conditions to be satisfied for the petitioner to claim benefit of past service, i.e. (i) these petitioners had continued in employment after December, 2017 on *ad hoc* basis extensions till 31st March, 2020 and (ii) they had applied before the competent authority for participating in the fresh selection exercise, meaning thereby, they were in service, even though *ad hoc*, till 31.03.2020 when the advertisement were issued for fresh recruitment. It is, therefore, apparent that the petitioners should have participated in the selection exercise initiated prior to termination of their services on 31st March, 2020. The learned Division Bench of this Court in the case of **Smt. Tapati Debbarma** (supra) therefore directed the competent authority under the department to scrutinize the case of individual writ petitioners in the light of the principles laid down hereinabove and take a decision within a stipulated period.

[18] Surprisingly, in the present writ petitions, the petitioners have not made any categorical averments that they had applied for participating in the fresh selection exercise in any such advertisement initiated prior to the termination of their *ad hoc* service on 31st March, 2020. As a matter of fact, the writ appeals in the case of **Smt. Tapati Debbarma** (supra) were contested on the very issue as to whether the State is obliged to grant the benefit of past service in the light of the observations made in paragraph 125 of **Tanmoy Nath's** case and the observations made in the case of Smt. Sangita Reang and others case in respect of those teachers who have been reappointed after the termination of their *ad hoc* service on 31st March, 2020 since they were not in service at the time of reappointment, meaning thereby there was no master and servant relationship between them. In **Tapati Debbarma's** case this Court took the view that delay in reappointment was not attributable to those petitioners since the recruitment process has been initiated before 31st March, 2020 but could not be completed. The present petitioners have

not stated that their appointments have been made in November-December, 2022 against advertisements issued prior to 31.03.2020 and delay in appointment were not attributable to them.

[19] In the above background the learned Division Bench of this Court in the case of *State of Tripura & others versus Smt. Tapati Debbarma* in WA No.304 of 2021 and analogous appeals while dealing with the rival contentions of the parties in the light of the observations made in *Tanmoy Nath's* case and *Sangita Reang's* case stipulated that the benefit of past service could be available to only those who had remained in service on *ad hoc* extensions till 31st March, 2020 and had applied before the competent authority for participating in the fresh selection exercise meaning thereby their participation in the fresh selection exercise was when they were in service already. In the present case, the writ petitioners have failed to make clear averments as to whether they had participated in the fresh recruitment exercise initiated prior to the termination of their service on 31st March, 2020.

[20] Learned senior counsel for the petitioners has placed emphasis on paragraph-18 of the judgment rendered by the Apex Court in case of *Sri Ajoy Debbarma and others versus State of Tripura and others*, reported in (2020) 8 SCC 67 in order to submit that the Apex Court had granted opportunity till 31st March, 2023 to get selected for the post of teachers in the State. Therefore, petitioners who got selected and reappointed in November/December, 2022 should get the benefits of past service as per the observations made at paragraph 125 of the judgment in *Tanmoy Nath's* case. The observations at paragraph 18 in the case of *Ajoy Debbarma* (supra) have been rendered in the context of the termination of teachers by the end of academic session 2019-2020. The Apex

Court took note that about 8882 *ad hoc* teachers were working in school education department in terms of the directions issued in **Tanmoy Nath's** case whose services were terminated after the academic session 2019-2020. The Apex Court in that background had the occasion to observe that considering the fact that the very selection and appointments were found to be illegal and invalid, no other advantage could be conferred upon the candidates concerned. The attempt on the part of the State in offering certain alternate employment is not to degrade the teachers but to offer some solace even in cases where the candidates do not succeed in the selection to the post of teachers. The candidates, if they are otherwise competent and eligible, will certainly have every opportunity till 31st March, 2023 to get selected to the posts of teachers in the State. Those who are unsuccessful in such attempts may retain the alternate employment. This could not amount to any degradation. The observations made by the Apex Court at paragraph-18 in case of **Sri Ajoy Debbarma** (supra) therefore could not be applied for counting of past service of those teachers who have been reappointed after their *ad hoc* services were terminated on 31.03.2020.

[21] Having regard to the discussions made hereinabove and since the foundational facts as to whether these writ petitioners had participated in the fresh selection exercise by making proper application before the competent authority prior to the termination of their *ad hoc* services on 31st March, 2020 or not, this Court is not in a position to hold that the claim of the petitioners for past service is tenable in law and on facts. The impugned order dated 6th July, 2023 passed in their individual cases has rejected their claim on the ground that these petitioners were out of service and the gap of non-working days between past and their present service could not be condoned in the light of existing rules. Therefore, the impugned order dated 06.07.2023 does not call for interference.

[22] However, if the claims of these writ petitioners are tenable on facts in the light of the directions passed by this Court in the case of *State of Tripura and others versus Smt. Tapati Debbarma* and other analogous appeals in *WA No.304 of 2021* dated 9th January, 2024 in the sense that they had applied for participating in the advertisement issued for fresh recruitment prior to the termination of their ad hoc services on 31.03.2020, the competent authority, may re-examine their cases in accordance with law without being inhibited by the impugned orders of rejection dated 6th July, 2023 passed earlier in their respective cases. However, if they fail to satisfy the conditions as laid down in the case of *Smt. Tapati Debbarma* (supra), their claim for past service cannot be granted.

[23] With these observations and directions, these writ petitions are disposed of.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH, CJ)

DIPESH DEB

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