

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 252 OF 2024

Smt. Tapashi Reang & Ors. Vs. The State of Tripura & 2 Ors.

For the petitioner (s) : Mr. A. Bhaumik, Advocate.

For the respondent (s) : D. Sarma, Addl.G.A.

HON'BLE MR. JUSTICE ARINDAM LODH

05.07.2024

Order

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

- i) *"Issue notice upon the Respondents.*
- ii) *Call for the Records.*
- iii) *Issue Rule calling upon the Respondents to show cause as to why the Petitioners shall not be granted the benefit of one increment under Rules,2009 along with all arrears of financial benefit.*
AND
Issue Rule calling upon the Respondents to show cause as to why the memorandum dated 6th July,2011 issued by the Finance Department, Government of Tripura shall not be set aside and quashed.
AND
Issue Rule calling upon the Respondents to show cause as to why the Petitioners shall not be granted the benefit of one increment as per the Judgment and Order at Annexure 12 and 13 of this Writ petition as upheld by the judgment of the Ld. Division Bench at Annexure-14 of this Petition.
- iv) *And after hearing the parties, be pleased to make the rule absolute.*
AND/OR
Pass any other order/orders as deemed fit and proper by this Hon'ble Court."

Heard Mr. A. Bhaumik, learned counsel appearing for the petitioners. Also heard Mr. D. Sarma, learned Addl. G.A. appearing for the respondents.

The fact of the case, in short, is that all the petitioners were appointed as Post Graduate Teachers under the respondents vide memorandum dated 29.08.2008 on fixed pay basis. Thereafter, on completion of 5 years' of service, the petitioners were provided the benefit of regular pay scale vide memorandum dated 05.11.2013. It is the contention of the petitioners that after entering into the service, they had completed B.Ed. Course on 30.09.2008 from the Tripura University and prior to 01.01.2009 and as such, the petitioners are entitled to an advance increment under Rule

13(1) (v) of the Tripura State Civil Services (Revised Pay) Rules, 2009 (for short, Rules of 2009). But, vide memorandum dated 6th July, 2011 [**Annexure-10** to the writ petition], the respondents have decided to grant lumpsum benefit which is not there in the Rules of 2009, and as such, according to the petitioners the said memorandum dated 6th July, 2011 is illegal and suffers from arbitrariness which requires interference.

Having gone through the memorandum dated 6th July, 2011, it is manifestly clear that the said memorandum restricts the operation of Rules of 2009 and is illegal being violative of the statute and it is a settled law that instructions/orders/memorandums cannot supplement the rules but can supplant the rules.

Mr. Bhaumik, learned counsel appearing for the petitioners has referred to a decision passed by a Coordinate Bench of this Court in **WP(C) No.602 of 2021 [Sri Sanjan Das vs. The State of Tripura & 2 Ors.]** vide judgment and order dated 19.01.2022, wherein, it was held that in-service Teachers who completed B.Ed. Degree after entering into service and prior to 01.01.2009 would be entitled to one advance increment. The said judgment was challenged in an intra-court appeal, which was dismissed.

I have considered the submissions of learned counsel appearing for the parties.

It is an admitted position that the petitioners obtained B.Ed. Degree prior to cut-off date, i.e. 01.01.2009, and as per Rules of 2009, the petitioners are entitled to get one advance increment instead of lumpsum amount.

Since the factual aspects of the present writ petition is similar and identical to the subject matter of the case of **Sanjan Das** (supra), the present writ petition is, therefore, allowed and disposed of in the same terms.

The respondents are directed to pay one advance increment and other financial benefits to the petitioners in line with the directions given in **Sanjan Das** (supra).

The entire process shall be completed within a period of 4(four) months from the date of receipt of a copy of this order.

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

JUDGE

sanjay