

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
IA No.01 of 2024 IN WA No.28 of 2024

Sri Sadhan Paul and others

..... Applicant(s)

V E R S U S

The State of Tripura and others

..... Respondent(s)

For Applicant(s) : Mr. Arijit Bhaumik, Advocate,
Mr. S. Dey, Advocate.

For Respondent(s) : Mr. D. Sharma, Addl. G.A.

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

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23/04/2024

IA No.01 of 2024

Heard Mr. Arijit Bhaumik, learned counsel appearing for the applicant-appellant and Mr. D. Sharma, learned Additional Government Advocate appearing for the State-respondent on the prayer for condonation of delay of 90 days in preferring the instant memo of appeal.

Considering the submissions of learned counsel for the parties and on being satisfied with the explanation urged, delay of 90 days in preferring the instant memo of appeal is condoned.

Interlocutory applications stands disposed of.

WA No.28 of 2024

Heard learned counsel for the parties on the main memo of appeal.

These writ petitioners who are the appellants were regularized vide notification dated 29th September, 2016 pursuant to the policy decision

of the State Government dated 21st November, 2009. A separate notification was also issued on the same date by which the effective date of grant of regular scale of pay was made in the case of respective writ petitioners from the date following the day on which they had completed 10 years of engagement on casual/temporary basis which was in consonance with sub-paragraph (iv) of the memorandum dated 21st January, 2009. However, it was also stipulated therein that the pay of the incumbents would be fixed notionally *with effect from* the date as mentioned in column No.5 of the above table as per the provisions of existing ROP Rules as applicable.

In the year 2023, writ petitioners approached this Court at the first instance seeking arrears of salary from 2009 i.e. the date following the day on which they had completed 10 years of engagement on casual basis relying upon sub-paragraph (iv) of the office memorandum dated 21st January, 2009. The writ petition was disposed of to make a representation. Their representation has been rejected by the employer which gave rise to a further round of litigation. The learned Writ Court in the second instance has dismissed the plea on the ground that such a claim is barred by delay and laches. Petitioners had completed 10 years of service before issuance of the office order of regularization which was made on 29th September, 2016 but they filed the instant writ petition in the year 2023 and thereby slept for many years and suddenly woke up from slumber. Therefore, they are not entitled to get any arrears of regular pay scale. Accordingly, the WP(C) No.294 of 2023 was rejected vide impugned judgment dated 29th January, 2024.

Learned counsel for the appellant submits that similar directions as prayed for herein were issued in a writ petition [WP(C) No.1173 of 2018] preferred by certain aggrieved persons which were disposed of vide judgment dated 30th June, 2018. However, it appears from perusal of the said judgment that the writ petitioners had approached initially in WP(C) No.41 of 2017 seeking regularization in service. The writ petition was disposed of with a direction to regularize the service of the petitioner *with effect from* the next date on completion of 10 years of service within a stipulated period and further directions were issued to grant them regular scale *with effect from* the date on completion of 10 years service in terms of the memorandum dated 21st January, 2009. Subsequently, a contempt petition was preferred which was again disposed of leading to the second round of writ petition i.e. WP(C) No.1173 of 2018.

The learned Writ Court taking note of the past background, therefore, directed the Government to release the arrears of pay and allowances in favour of the petitioner for the entire period from the respective dates of regularization till they started receiving pay and allowances in regular pay scale. The facts of the said case are distinguishable from the present case as noted above. Here the petitioners have approached this Court first time in the year 2023 though they were regularized vide order dated 29th September, 2016 on completion of service in terms of policy decision dated 21st January, 2009 and by a separate notification of the same date they were granted regular scale of pay though on notional basis from the date they completed 10 years of casual engagement. As such, the learned Writ Court rightly held that the writ petition was barred by delay and laches.

We do not find any error in the impugned judgment dated 29th January, 2024 passed by the learned Single Judge. Accordingly the instant appeal is dismissed. Pending application(s), if any, also stands disposed of.

(S.D PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

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