

**HIGH COURT OF TRIPURA
AGARTALA**

**IA No. 01 of 2024
in WA No. 35 of 2024**

Sri Prasenjit Banerjee & Ors.

..... Appellant-Applicant(s)

V E R S U S

The State of Tripura & Ors.

..... Respondent(s)

For Appellant-Applicant(s)	:	Mr. C S Sinha, Adv.
For Respondent(s)	:	Mr. Kohinoor N. Bhattacharjee, GA.

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

Order

02.07.2024

I.A No. 01 of 2024

Heard Mr. C.S Sinha, learned counsel appearing for the appellant-applicants and Mr. Kohinoor N Bhattacharjee, learned GA appearing for the State-respondents.

We have considered the submission of the learned counsel for the parties and on consideration of the explanation urged, the delay of 140 days is condoned.

I.A. is disposed of.

WA No. 35 of 2024

Heard learned counsel for the parties on the merits of the appeal as well.

The petitioners were appointed as Civil Defence Workers between 1995 to 2001. They approached the Writ Court in W.P.(C) No. 498 of 2023 for regularization of their services from the dates of their joining with consequential reliefs.

The regularization scheme bearing order No. F.2(9-Misc)-MS/ESTT-III/2005 dated 7th December, 2012 under which the writ petitioners sought to be regularized was repealed by a conscious decision of State Government contained in the memorandum dated 31st July, 2018. Both the Memorandum have been evidenced by the learned Writ Court. The writ petitioners have been converted to DRW status in the year 2012. This was done with concurrence of the Finance Department. Learned Writ Court however has held that since the scheme for regularization which operated for 10(ten) long years has been repealed on 31st July 2018, no claim for regularization can be allowed nor any direction can be issued upon the Government to re-open the scheme and consider the cases of these writ petitioners. The writ petition has also been dismissed on the ground of delay and laches.

Learned senior counsel for the petitioner has drawn our attention to Paragraphs- 4 and 5 of the memorandum dated 1st August, 2018. The same are quoted hereunder:

“4. The policy decision of the Government for regularizing the services of DRW/Casual/Contingent Workers after 10 years of services has been reviewed and in supersessions of all the memorandums, new memo has been issued with F.No.10(2)-FIN(G)/2018(Part), dated, 31.07.2018.

5. Therefore, it has been decided that there shall not be any engagement of DRW/Casual/Contingent Workers in any office under State Government without concurrence of Finance department. Payment of salary/wages/remuneration or any type of financial benefit for engagement is fully prohibited. Responsibility of any new engagement and paying of wages/ salary etc. for DRW/PTW/MRW/Contingent Workers/ Contractual employees including re-appointment/ re-engagement without finance department approval will be fixed on the concerned HODs for engagement and payment and the concerned officer will come under departmental proceeding for violation of the financial rules of the State.”

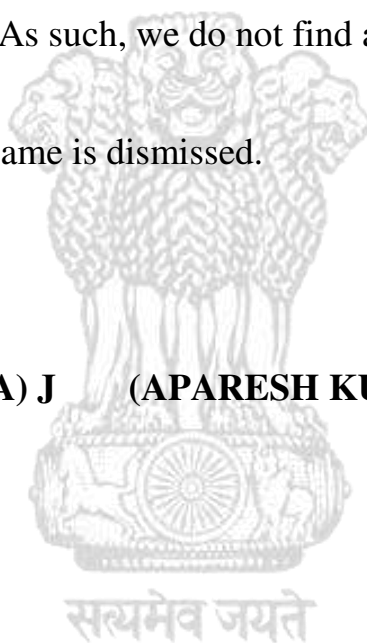
By this memorandum and the memorandum dated 31st July, 2018 all other previous schemes were repealed. They are in fact referred to at Paragraph-8 of the impugned judgment and also cover the schemes dated 21st January, 2009 and 7th December, 2012 relating to regularization of DRWs/Casual/Contingent etc. workers on completion of 10 years of service. In the Memo dated 7th November, 2012 it was contemplated that those part-time workers engaged as DRWs/Group-D working in different departments of the Government for 2/3/4 hours who were engaged on or prior to 31st March, 2003 and had completed 10 years of service w.e.f 1st December, 2012 were to be regularized. However, since both memorandums stand repealed by the office memorandum dated 31st July, 2018 and reiterated in the memorandum dated 1st August, 2018 (Annexure-3 of the writ appeal) issued by Department of Finance, Government of Tripura, no legal right to seek regularization exists in favour of the petitioners. Paragraph 5 of the office memorandum dated 1st August, 2018 on the other hand provides that there shall not be any engagement of

DRWs/Casual/Contingent workers in any office under the State Government without concurrence of the Finance Department.

This only reiterates the extant position that after repeal of the regularization schemes by OM dated 31st July, 2018/ 1st August, 2018 any fresh engagement of DRWs could not be without concurrence of the Finance Department. This, in any event, it does not create a right for regularization. The petitioners have chosen to sleep over their rights for considerable period and approached this Court in 2023, five years after the abolition of the scheme. As such, we do not find any merit in this appeal.

Accordingly, the same is dismissed.

(S. D. PURKAYASTHA) J (APARESH KUMAR SINGH) CJ



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