

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.32 of 2024

Sri Asis Debnath

..... Appellant(s)

V E R S U S

The State of Tripura and others

..... Respondent(s)

For Appellant(s)	:	Mr. P. Roy Barman, Sr. Adv. Mr. Koomar Chakraborty, Adv.
For Respondent(s)	:	Mr. S. S. Dey, Advocate General Mr. S. Sarma, 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

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Chakraborty, learned counsel appearing for the appellant and Mr. S.S. Dey, learned Advocate General assisted by Mr. D. Sarma, learned Addl. GA appearing for the State.

The learned Writ Court has by the impugned judgment dated 11th December, 2023 passed in W.P.(C) No.383 of 2022 rejected both the prayers for regularization of the services of the writ petitioners and also for pay parity or rather minimum scale of pay.

It is the case of the writ petitioners that they have been engaged on contractual basis on vacant sanctioned post of driver in South Tripura District, Belonia, of course not on the basis of regular recruitment through advertisement but on the recommendation of the District Magistrate & Collector, South Tripura, Belonia which had *ex post facto* approval from the Finance Department. According to the writ petitioners, they have been engaged since

the year 2011. Though the regularization schemes framed by the Government of Tripura pursuant to the decision rendered in the case of **Secretary, State of Karnataka and others vs. Umadevi (3) and others, (2006) 4 SCC 1** have been repealed vide memorandum dated 31st July, 2018 but the petitioners on completion of 10 years of contractual engagement ought to have been regularized in service as they were engaged against permanent vacant sanctioned post of drivers and their engagement as daily rated workers since their date of joining was also approved by the Finance Department. Alternatively, the writ petitioners also sought relief of regular scale of pay as are applicable to the regular employees. The case was contested by the respondents.

The learned Writ court considered the judgments rendered by the Apex Court from time to time including that of **Renu and others vs. District and Sessions Judge, TIS Hazari Courts, Delhi and another, (2014) 14 SCC 50** and came to an opinion that the initial appointment of the petitioners is illegal and *dehors* the constitutional schemes. Therefore, they are not entitled to claim pay parity as those of employees who have been appointed on regular basis following the established norms of public employment. There was no fundamental right in favour of these persons who were engaged on daily wages or temporarily or on contractual basis to claim a right to be absorbed in service. The learned Writ Court also did not consider it proper to grant the alternative relief of regular pay scale as is applicable to the regular employees of that cadre as their appointments were not in accordance with law.

We have considered the submission of the learned counsel appearing for the parties and gone through the impugned judgment as well. It is

true that the regularization scheme has been repealed on 31st July, 2018 by the State of Tripura but if the writ petitioners have been engaged on daily rated basis or contractual basis against sanctioned vacant post of drivers and have been continued for more than 10 years by now since their engagement in 2011, the petitioners' case for minimum scale of pay requires consideration at the level of the competent authority. The writ petitioners have not entered through the regular recruitment process by way of an advertisement but have continued to discharge the duties as drivers for more than 10 years on the wages of a daily rated employee. As such, we are inclined to direct the respondents authority to consider the claim of the writ petitioners for minimum scale of pay to the writ petitioners on the post they are working. The writ petitioners are at liberty to make a representation within 2[two] weeks along with supporting documents. The competent authority under the respondents would consider the claim of the writ petitioners in accordance with law on such prayer within a period of 12 weeks from the date of receipt of the copy of such representation along with a copy of this order.

The instant appeal is accordingly disposed of.

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

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

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