

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.40 of 2024

- 1. The State of Tripura,**
To be represented by the Principal Secretary, Department of Finance,
Government of Tripura, New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN
799010.
 - 2. The Secretary,**
Department of Panchayet, Government of Tripura, New Secretariat
Building, New Capital Complex, Kunjaban, P.S. New Capital Complex,
Agartala, West Tripura, PIN 799010.
 - 3. The Director,**
Office of the Directorate of Panchayats, Government of Tripura, Pandit
Nehru Complex, Gurkhabasti, P.O. Kunjaban, West Tripura, PIN 799006.
 - 4. The Block Development Officer,**
Kumarghat RD Block, Government of Tripura, Unakoti District, Tripura.
- Appellant(s)

V E R S U S

- 1. Debashish Datta Roy,**
Son of late Dinesh Chandra Datta Roy, resident of Boulapasha, Mother
Teresa Sarani, P.O. & P.S. Kailashahar, District Unakoti Tripura, Age 61
years.

.....Petitioner- Respondent(s)
- 2. The Accountant General (A & E),**
Tripura, Agartala, P.O. Kunjaban, West Tripura, PIN 799006.

..... Proforma-Respondent(s)

For Appellant(s)	:	Mr. M. Debbarma, Addl. G.A.
For Respondent(s)	:	Mr. P. Roy Barman, Senior Advocate. Mr. S. Bhattacharjee, Advocate. Mr. N. Majumder, Advocate.

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

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05/08/2024

Heard Mr. M. Debbarma, learned Addl. G.A. for the appellants
and Mr. P. Roy Barman, learned senior counsel assisted by Mr. S.
Bhattacharjee, learned counsel for the respondent No.1.

[2] The learned Writ Court has by the impugned judgment held that the writ petitioner is entitled to pensionary benefits to be paid within a period of 4 (four) months from the date of receipt of the relevant documents.

[3] The case of the writ petitioner was based upon the contention that he has been engaged on ad-hoc basis on 15.09.1989 and continued till 28.02.2022 when he attained superannuation holding the post of Panchayat Extension Officer on ad-hoc basis. On the ground of non-regularization of his services, the prayer of the writ petitioner for pension was opposed by the respondents. The learned Writ Court held that the writ petitioner could not have been kept as an ad-hoc employee for such a long period and is thus, entitled for being treated as a regular employee for pension purposes. Learned Writ Court recorded findings that the writ petitioner was working over a period of several years under the Department on ad-hoc basis and was being granted leave as per the Leave Rules of 1986 and even proceeded departmentally under CCS(CCA) Rules, 1965. At the same time, the tentative seniority list dated 31.03.1992 showed him at serial number 38. Apart from that, the financial statements of the account department considered him on par with a regular employee and accorded CAS/ACP benefits which are reflected from his service records.

[4] Mr. M. Debbarma, learned Addl. G.A. for the appellant-State submits that the tentative seniority list had been deleted and the writ petitioner was never accorded the benefits of Career Advancement Scheme or ACP benefits.

[5] During the proceedings of this appeal, the entire service record of the writ petitioner has been brought on record by way of an additional affidavit to question the findings of the learned Writ Court on those counts.

[6] It is the case of the appellants that if the writ petitioner was granted fixed pay and his remuneration on fixed pay was enhanced from time to time that could not confer him the status of a regular employee even though he has continued on ad-hoc basis for a number of years. The impugned direction treating the writ petitioner as a regular employee would fall foul as other service benefits due to a regular employee were never accorded to him during this period. As such, the impugned judgment suffers from errors apparent on the face of record.

[7] Learned counsel for the writ petitioner has taken pains to draw the attention of this Court to certain documents which are part of the writ record and also part of the additional document at pages 30 to 33, 44 to 46. However, these documents are mere recommendation or proposals of the Block Development Officer whereupon no actual conferment of CAS/ACP benefits appear to have been granted to the writ petitioner as per the service record. If that be so, the findings of the learned Writ Court specifically at paragraphs 16 and 17 suffers from errors apparent on the face of record which have led to issuance of the impugned direction to treat the writ petitioner as a regular employee for pensionary purposes. In that event, right course for the appellants would be to approach the learned Court in review jurisdiction. Accordingly, the writ appeal is disposed of as withdrawn in order to prefer a review.

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

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ