

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.474 of 2024

Sri Manik Bhowmik & others

.....Petitioner(s);

Versus

The State of Tripura & others

.....Respondent(s)

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Mr. Pranabindu Chakraborty, Advocate.

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

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

12/07/2024

Heard Mr. Somik Deb, learned senior counsel for the petitioners and Mr. D. Sharma, learned Additional Government Advocate for the respondents-State.

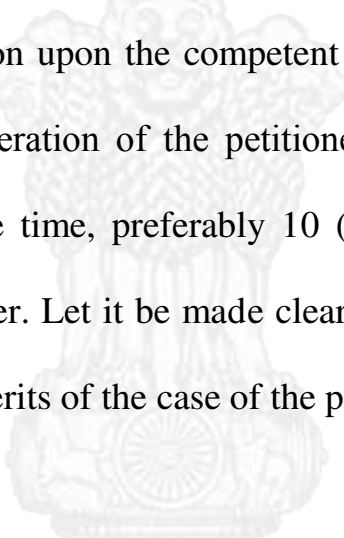
The instant litigation has a chequered history. Petitioners were appointed as Post Graduate Teacher and Graduate Teacher on fixed pay basis in the year 2017, but their B.Ed (Special) qualification was not recognized as B.Ed (Regular) by the respondents. Thereafter, litigation was pursued such as WP(C) No.1050/2017 for declaring equivalence of B.Ed (Special) Degree with B.Ed (Regular). The writ petition was dismissed and the review petition was also not entertained vide judgments dated 19.12.2018 and 21.05.2019 respectively. However, by virtue of the observations made in the review petition, petitioner pursued administrative remedies. Meanwhile petitioners contend that they have acquired B.Ed (Regular) Degree through Open Distance Learning (ODL) mode from ICFAI University after obtaining permission from their employer. Petitioners' contempt case being Cont. Cas(C) No.118/2023

was also dismissed on 24.08.2023 [Annexure-12]. A show cause notice has been issued by the Director of Secondary Education on 28.07.2023 [Annexure-13] as to why the appointment of the petitioners be not cancelled as they did not fulfil the eligibility criteria of B.Ed (Regular) at the time of initial recruitment. Petitioners have furnished their reply on 16.08.2023 [Annexure-15] which lies pending before the respondent-authorities. Learned senior counsel for the petitioners contends that the fate of the petitioners are hanging in balance. Petitioners have furnished a cogent reply on consideration of which, the show cause notice should be dropped and they should be treated as regular employees after five years of their service from the date of their joining. Since the matter has been pending for about one year after issuance of the show cause notice and submission of their reply, petitioners have been compelled to approach this Court for relief with the following prayers:

- “i) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, for directing them, to transmit the records, appertaining to this writ petition, lying with them, for rendering substantive and conscionable justice to the petitioners;
- ii) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for mandating/directing them, to forthwith reckon the past services, rendered by the petitioners, while determining the seniority, regular pay scale, leave encashment, leave salary, gratuity and all other admissible service benefits, including pension, as well as the arrears of salary and allowances, in conformity with the various decisions of this Hon’ble High Court;
- iii) Call for the records appertaining to this writ petition;
- iv) Costs of and incidental to this writ petition;
- v) After hearing the parties, be pleased to make the Rule Absolute in terms of i. & ii. above;
- vi) Any other Relief(s) as to this Hon’ble High Court may deem fit and proper;”

Learned Additional Government Advocate for the respondents-State submits that the cause of action is premature as the matter is lying before the competent authority/respondent No.4-Director of School Education.

On noticing the chronology of facts and events as above since the matter is pending before the respondent No.4-Director of School Education in view of the show cause notice dated 28.07.2023 and the reply furnished by the petitioners on 16.08.2023, this Court is of the view that no authoritative determination in relation to the claim of the petitioners can be made at this stage. Since it appears that no decision has been taken on the show cause notice dated 28.07.2023 [Annexure-13] by the respondent No.4, the writ petition is disposed of with a direction upon the competent authority/respondent No.4 to take a decision on consideration of the petitioners' reply to the show cause notice within a reasonable time, preferably 10 (ten) weeks from the date of receipt of copy of this order. Let it be made clear that this Court has not made any comments upon the merits of the case of the parties.


सत्यमेव जयते (APARESH KUMAR SINGH), CJ

Pijush/

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