

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.197 of 2021

- 1. The State of Tripura**, to be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Civil Secretariat Complex, P.O. Kunjaban, Agartala, West Tripura, PIN- 799006.
- 2. The Secretary to the Government of Tripura, Secondary Education Department**, Civil Secretariat Complex, P.O. Kunjaban, Agartala, District: West Tripura, PIN-799006.
- 3. The Secretary to the Government of Tripura, Department of Elementary Education**, Civil Secretariat Complex, P.O. Kunjaban, Agartala, District: West Tripura, PIN-799006.
- 4. The Director of Elementary Education, Government of Tripura**, Old Secretariat Building, Akhaura Road, Agartala, PIN-799001.
- 5. The Director of Secondary Education, Government of Tripura**, Old Secretariat Building, Akhaura Road, Agartala, PIN-799001.
- 6. The Addl. Secretary, Government of Tripura**, Office of the Director of Secondary Education, Secretarial Complex, P.O. Kunjaban, Agartala, District: West Tripura, PIN- 799006.
- 7. The Principal-in-Charge, DIET, Abhoynagar, Agartala**, P.O. Abhoynagar, District: West Tripura, PIN- 799005.

.....Appellants

(Respondents No.1 to 7 in writ petition)

Versus

Smt. Susmita Bhattacharjee @ Susmita Bhattacharya, daughter of late Jagadindra Bhattacharjee, wife of Sanjib Bhattacharjee, resident Krishnanagar, Pragati Road, P.O. Agartala, P.S. West Agartala, District: West Tripura, PIN-799001.

.....Respondent

(Petitioner in writ petition No.1190 of 2019)

WA No.199 of 2021

- 1. The State of Tripura**, to be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Civil Secretariat Complex, P.O. Kunjaban, Agartala, West Tripura, PIN- 799006.
- 2. The Secretary to the Government of Tripura, Secondary Education Department**, Civil Secretariat Complex, P.O. Kunjaban, Agartala, District: West Tripura, PIN-799006.
- 3. The Secretary to the Government of Tripura, Department of Elementary Education**, Civil Secretariat Complex, P.O. Kunjaban, Agartala, District: West Tripura, PIN-799006.
- 4. The Director of Elementary Education, Government of Tripura**, Old Secretariat Building, Akhaura Road, Agartala, PIN-799001.
- 5. The Director of Secondary Education, Government of Tripura**, Old Secretariat Building, Akhaura Road, Agartala, PIN-799001.
- 6. The Addl. Secretary, Government of Tripura**, Office of the Director of Secondary Education, Secretarial Complex, P.O. Kunjaban, Agartala, District: West Tripura, PIN- 799006.
- 7. The Principal-in-Charge, DIET, Abhoynagar, Agartala**, P.O. Abhoynagar, District: West Tripura, PIN- 799005.

.....Appellants

(Respondents No.1 to 7 in writ petition)

Versus

Sri Prasenjit Roy, son of late Sudarshan Chandra Roy, resident of East Shibnagar, P.O. Agartala College, District: West Tripura, PIN- 799004.

.....Respondent

(Petitioner in writ petition No.1189 of 2019)

For the Appellant(s) : Mr. Kohinoor N. Bhattacharya, G.A.
Mr. M. Debbarma, Addl. G.A.

For the Respondent(s) : Mr. Somik Deb, Sr. Advocate.
Mr. P. Chakraborty, Advocate.
Mr. Kundan Pandey, Advocate.

Date of hearing : 12.03.2024.

Date of pronouncement
of Judgment & Order : 18.03.2024.

Whether fit for reporting : Yes

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R

[T. Amarnath Goud, J]

Heard Mr. Kohinoor N. Bhattacharya, learned G.A. and Mr. M. Debbarma, learned Addl. G.A. for the State- appellants. Also heard Mr. Somik Deb, learned senior counsel assisted by Mr. P. Chakraborty, learned counsel appearing for the respondents.

[2] The present writ appeals filed by the appellants arise out of common cause of action challenging the same impugned judgment and order of the learned Single Judge dated 09.04.2021 [in a common judgment in WP(C) No.706 of 2019, W.P(C) No.1189 of 2019 and W.P(C) 1190 of 2019] and the reliefs sought for in these appeals are also similar in nature. Accordingly, the present writ appeals are taken together for consideration and disposal of the same in a common judgment.

[3] The brief fact of this case is that the petitioners in the writ petitions (respondents herein) are teachers (PGT/AT) in Government Schools. In 2003, vide applications from the interested teachers of Government Secondary and Higher Secondary Schools, the petitioners had been invited for service utilization on deputation at District Institution of Education and Training [DIET, for short.] In 2004, it was decided for appointment to the post of Lecturer, DIET on contract for 37 posts (Newly created 20 + available vacancies 17). Accordingly, 22 candidates were appointed to the post of Lecturer, DIET on a contractual basis in December 2004. Eight of them continued to perform as Lecturer DIET on a contractual basis and finally, they were appointed to the post of Lecturer, DIET on regular basis. The three petitioners earlier filed writ petitions WP(C) No.06/2014, WP(C) No.722/2018 and WP(C) No.214 of 2018 for their absorption as lecturers in DIET as the appointment of those 8(eight) numbers of lecturers.

[4] The State categorically denied and disputed the contentions of the petitioner through its counter affidavit stating *inter alia* that the petitioner holds the post of Post Graduate Teacher and their services were placed under F.R. 11 at the disposal of the Principal, DIET, Agartala with the scale of pay and post held by them i.e. Post Graduate Teacher moreover, their placement is subject to the condition of the Memorandum No.F.3.(1-99)

DSE/2000 dated 17.07.2003 with specific term and conditions and that the petitioners may be withdrawn from DIET at any time, when their services are not required in DIET. According to the appellants State, the petitioners are bound by the foregoing terms and conditions mentioned in the said memorandum.

[5] It is contended on behalf of the appellant- State that the said eight persons have been offered to the post of Lecturer, DIETs on contract basis under F.R. 11 on the recommendation of the Selection Committee against the Advertisement (ICAT-C-1940) dated, 06.02.2004. The petitioners did not apply for the post of Lecturer of DIET on contract basis as like the eight Lecturers of DIET engaged on contractual basis as the petitioners were enjoying the higher pay package of the scale of Post Graduate Teacher.

[6] Learned Single Judge, upon hearing the arguments made by the parties, disposed of the case of the petitioners (respondents herein) in a common judgment and order dated 09.04.2021 in a common judgment in WP(C) No.706 of 2019, W.P(C) No.1189 of 2019 and W.P(C) 1190 of 2019 with the following observation and direction:

".....[26] In my considered view, when the Director SCERT had recommended the names of the petitioners for their absorption under DIET, non-forwarding of the same for approval of the Council of Ministers while the names of contractual candidates were forwarded, definitely violates the doctrine of equality and thus offends Article-14 of the Constitution of India. In furtherance thereof, in the recommendation letter, the Director, SCERT clearly

has stated that the petitioners were eligible in all respects to be absorbed in the regular posts of Lecturers under DIET. In the instant case, it is established from the records that eight candidates who were appointed on contract basis initially, they were absorbed against the regular vacant posts of Lecturers under the DIET on the basis of their repeated representations without following the established procedure of public employment. I was inclined to quash the appointments of these eight Lecturers who were appointed in total violation of the established rule of public employment. But, the petitioners have not made such prayer before this Court.

However, it is apparent from the face of the records that the petitioners were utterly discriminated due to arbitrary decision taken by the authorities concerned. The reason assigned while rejecting the representations of the petitioners particularly, Smt. Nandini Bhattacharjee, that she had no required qualification, is absolutely unfounded and factually incorrect. The authority concerned even did not think it necessary to examine her records, though, according to the learned senior counsel, her qualification has also been recorded in her service book. As such, in my considered view, the petitioners also are entitled to get similar treatment as those of eight Lecturers who were absorbed under the DIET. The State-respondents are directed to send the names of the petitioners to the Council of Ministers and this Court hopes and trust that the Council of Ministers shall consider the case of the petitioners herein in the line of those eight contractual Lecturers exploring all possibilities, keeping in mind the DIET needs the service of all the petitioners, and vacant posts still exist under DIET. Furthermore, the petitioners have all the essential qualifications for being absorbed/appointed as Lecturer under respondent No.7.

It has been made clear that till such consideration by the Council of ministers and a fresh decision is taken by the competent authority, the services of the petitioners namely, Sri Prasenjit Roy and Smt. Susmita Bhattacharjee @ Susmita Bhattacharya, who have been serving under DIET till today, shall not be disturbed by way of repatriation to their parent department. It is further made clear that repatriation of Smt. Nandini Bhattacharjee, the petitioner in WP(C) No.706 of 2019 shall not come in the way of her absorption under DIET as Lecturer.

[27] With the above observations and directions, the present petitions stands disposed. Pending application(s), if any, also stands disposed."

Aggrieved by the above quoted order of the learned Single Judge dated 09.04.2021, the present writ appeals have been preferred by the State respondents (appellants herein) for setting aside the said order.

[7] Mr. M. Debbarma, learned Addl. G.A. appearing for the State appellants submits that learned Single Judge has committed serious error in passing the judgment in favour of the petitioners (respondents herein) by not considering that the appointment of those 8(eight) lecturers were made through an interview and later on, they were brought under regular appointment granting only age relaxation and relaxation in the mode of direct recruitment as approved by the council of ministers, while the writ petitioners have never subjected themselves to any such interview or the selection process for the post of Lecturer, DIET whatsoever for recruitment substantively to the post. He, therefore, urges before this Court that the impugned judgment and order passed by the learned Single Judge is liable to be set aside.

[8] It is further contended on behalf of the State that as per the memorandum dated 15th May, 2003 the petitioners (respondents herein) applied for deputation in the DIET and subsequently, they were placed at the disposal of the Principal, District Institute of Education, Agartala as per the memo dated 17.7.2003 issued by the Director of School Education, Tripura. The clause-3 of memorandum dated 15th May, 2003 issued by the Director of School Education more particularly clause '3C' clearly indicates that the school teachers selected for deputation to the institutions of teacher education shall not be entitled to any extra

financial benefits during the period of their deputation in the teacher training institutions. Neither will they be entitled to claim absorption, higher scale of pay, promotion, etc, for working in the above teacher training institutions on deputation. They will continue to get pay and allowances in their respective scales of pay they used to get in their respective schools as school teachers before deputation. Now, in the present situation, they cannot claim that their cases should be treated at par with the 8(eight) lecturers those who were appointed through an interview and later on, they were brought under regular appointment in the mode of direct recruitment. For the purpose of reference, Clause-3 of the said memorandum dated 15th May, 2003 issued by the Director of School Education is quoted hereunder:

"...3. The following terms and conditions are laid down for the school teachers who will opt for working in the teacher education institutions under this Project.

A. The persons selected for the assignment shall have to perform duties assigned by the Heads of the Institutions.

B. Their deputation shall be only for one academic session. However, their deputation period may be extended further depending upon the performances shown in the report of the concerned Heads of the training institutions.

C. The school teachers selected for deputation to the above institutions **illegible* not be entitled to any extra financial benefits during the period of the deputation in the teacher training institutions. Neither will they be entitled to claim absorption, higher scale of pay, promotion, etc. for working in the above teacher training institutions on deputation. They will continue to get pay and allowances in their respective scales of pay they used to get in their respective schools as school teachers before deputation.

D. As they shall be working in the institutions of teacher education, their services may be needed even beyond normal office schedules as such, they should be ready to serve extra time without any extra benefits.

E. If not found suitable, the deputed school teachers may be sent back to their respective schools even during the academic

session and the decision of the Education Department in this regard shall be final.....”

[9] On the other hand, Mr. Somik Deb, learned senior counsel assisted by Mr. P. Chakraborty, learned counsel appearing for the respondents opposes the submission made by the Addl. G.A. contending that the petitioners in the writ petition are severing at the D.I.E.T for a long period and for the interest of justice, they must be absorbed as Lecturer. To support his submission, learned senior counsel has placed reliance on the following judgments of the Hon’ble Supreme Court, the contents of the said judgments as referred by Mr. Deb, learned senior counsel is quoted herein-below:

(i) *Nehru Yuva Kendra Sangathan v. Rajesh Mohan Shukla and others* reported in (2007) 6 SCC 9:

"9. Now, these appeals have come up for hearing. We find that the nature of duties being discharged by the Youth Coordinators who have come on deputation and have been absorbed as such and those who were directly recruited on fixed term are discharging the same duties. The only difference is their source of recruitment. Once the deputationists are discharging the same duties and are being paid salary and other allowances then there is no reason to deny the same benefits who are discharging the same duties and functions. Those deputationists now absorbed obtained the order from this Court but the direct recruits did not approach this Court, they were treated as a class apart because of their source of recruitment. Once these persons are already working for more than two decades discharging the same functions and duties then we see no reason why the same benefit should not be given to the respondents. Looking to the nature and duties of these respondents we are of opinion that there is no reason to treat them differently. However, at the time of admission this Court on 1-5-2000 confined the relief from the date of filing of the writ petition before the High Court. In fact, these directly recruited Youth Coordinators approached the Court in earlier point of time but they were advised to approach the Government and they did approach the Government but the Government denied them the same relief as was given to the deputationists. Therefore, there is no reason not to grant them the same scale pay and as such this Court at the time of admission has confined the relief that why it should not be granted from the date of the filing of the writ petition in the High Court. Accordingly, we dispose of these civil appeals with a direction that the same benefits as were being given to the

Youth Coordinators who were initially on deputation and were absorbed, should be given to the respondents from the date of filing of the writ petition in the High Court of Allahabad. Hence, the order of the High Court of Allahabad is affirmed with minor modification as indicated above. There would be no order as to costs."

(ii) Food Corporation of India and others v. Ashis Kumar

Ganguly and others reported in (2009) 7 SCC 734:

"17. The learned Additional Solicitor General drew our attention to the statements made in the rejoinder affidavit to show as to how the Central Government employees were different from that of the State Government employees. Only because, according to the Corporation, they were treated differently, in our opinion, by itself cannot be a ground not to apply the rules applicable to the employees of Food Corporation of India on their absorption in the services of Food Corporation of India only because they have been taken from the different sources. Different treatments meted out to the respondents vis-a-vis the Central Government employees although drawn from separate cadre, for the purpose of grant of benefit to one class only, would, in our opinion, amount to discrimination.

30. It is contended that the deputationists who were the Central Government employees were transferred in terms of Section 12-A of the Act. We may notice sub-section (3) thereof, which reads as under:

"12-A.(3) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the Corporation may determine and shall subject to the provisions of sub-sections (4), (4A), (4B), (4C), (5) and (6) to be governed by the regulations made by the Corporation under this Act as respects remuneration and other conditions of service including pension, leave and provident fund, and shall continue to be an officer or employee of the Corporation unless and until his employment is terminated by the Corporation."

As in terms of the aforementioned provision, the employees so transferred would be deemed to be the employees of the Corporation upon cessation of the relationship of employer and employee between the Central Government and themselves and they would be subject to the provisions of the same regulations.

31. Incidentally, we may notice that even in the Circular Letter dated 19-3-1984, it was categorically stated:

"The absorption of the employees will be subject to the following conditions:

(i) The State Government employees who opt for permanent absorption in the service of the Corporation will be treated as direct recruit and will be subject to the terms and conditions as prescribed in FCI (Staff) Regulations, 1971." 25. If respondents, thus, were to be treated as direct recruits subject to the terms and conditions and as prescribed in FCI Staff Regulations, 1971, in law they were also required to be treated alike as having entered the services of the Corporation

for the first time. Even their seniority in the post in which they were absorbed was to be accounted from the date of absorption in the Corporation.

32. Thus, for all intent and purport, the past services of the Central Government employees and the State Government employee whether appointed in the service of the Corporation by way of transfer or by way of absorption would result in cessation of relationship of employer and employee between the Central Government or the State Government as the case may be and the employees concerned. In other words, until their absorption, the respondents were the employees of the State Government and they become the employees of the Corporation only upon their absorptions. Furthermore in the cases of both the Central Government employees as also the State Government employees, common regulation would bind them since their absorption in the service of the Corporation either in terms of sub-section (3) of Section 2A of the Act or in terms of the order of absorption passed in respect of each of the respondents.

33. Submission of the learned Additional Solicitor General that the employees transferred from the Central Government and those deputationists who have been absorbed fall in different classes cannot be accepted.

34. The learned Additional Solicitor General pointed out the following purported differences between the two groups of employees:

"a. The services of the food transferees from Central Government were transferred to FCI on compulsory/permanent basis after Central Government Gazette Notification, in accordance with Section 12A of the Food Corporations Act, 1964. Whereas the West Bengal Deputationists were sent on deputation to FCI as per agreement with the Government of West Bengal and FCI.

b. The Food transferees from Central Government had no option for joining or otherwise in the FCI on transfer from RDF. It was compulsory for them. Whereas there was no compulsion for West Bengal Deputationists for their absorption in FCI. They had an option either to be repatriated to their parent department. Govt. of West Bengal or to be inducted in FCI as per FCI, HQ circular No.21 of 19.3.1984.

c. After the transfer of the services of the Food transferees from Central Government to FCI, their parent department was wound up except for existence of power with 1 or 2 officers to settle their pension cases. Whereas existence of the parent department of West Bengal Deputationists i.e. Food & Supplies Department, Government of West Bengal with manpower was/is all along there.

d. The Food transferees from Central Government did not have to tender any resignation with their parent department for transfer of their services to FCI. Whereas the deputationists employees had to resign from the Department of Food & Supplies of West Bengal before their absorption in FCI.

e. The Food transferees from Central Government enjoyed continuity of their services. They were the food "Transferees". Whereas by virtue of the option exercised with FCI by the Deputationists Employees, their status is of a direct recruit w.e.f. 01.07.1984.

f. On joining FCI, the Food transferees from Central Government did not get any gratuity from their parent

department in respect of their services rendered with the Government of India. Whereas the Deputationists Employees had received their gratuity and pro-rata pension from their parent department for the services they rendered with the Government of West Bengal.

g. The Food Corporation of India (Staff) Regulations, 1971 were not in existence at the initial stage of the transfer of the RDR Employees in FCI. Whereas at the time of the absorption of the Deputationist Employees in FCI, the Food Corporation of India (Staff) Regulations, 1971 were in existence."

35. We would deal with them in seriatum:

a. The conditions of service of employees from two different sources can not be different only because they were recruited from different sources. In view of the fact that both the set of employees were governed by the same set of regulations, it would not be correct to contend that the transferees from the Central Government had no option.

b. It was for the Central Government to issue an appropriate notification in terms of Section 12A(1) of the Act. Only when such an order was issued, sub-section (3) thereof would come into play. Applicability of a rule would not depend upon the question as to whether the respondents had an option either to be repatriated to their parent department or not inasmuch as the rule became applicable only on their absorption and not prior thereto.

c. No additional fact has been placed before us in support of the statement that the entire Food Department was wound up. Even if that be so, in absence of any such regulation governing their cases, they could have been given the benefit of an additional increment to which other employees were also entitled to.

d. For the aforementioned reasons, in our opinion, it is wholly immaterial as to whether cessation of relationship of employer and employee took place by reason of resignation or by transfer.

e. In view of the terms and conditions of transfer so far as the Central Government employees are concerned and the option exercised by the deputationists as well the effect of Regulation 81, there is no force in the aforementioned contention.

f. As in the case of the employees of the Central Government, the continuity of service had been maintained only because the deputationists had received their gratuity and pro-rata pension from their parent department, in our opinion would not make any difference as the sole question was as to whether the proviso appended to Rule 81 was applicable in their case or not.

g. We have noticed hereinbefore that even before coming into force of the FCI Staff Regulations, 1971, there existed a similar provision by way of paragraph 4.68 of the Manual. Thus, whereas in the case of the Central Government employees, the earlier provisions were applied, in the case of the State Government employees, the regulations are to be made applicable.

36. Submission of the learned Additional Solicitor General that Article 14 of the Constitution of India postulates a valid classification cannot be said to have any application in the

instant case. The High Court, in our opinion, has rightly found that in the matter of grant of benefits under proviso appended to Regulation 81, all the employees were similarly situated.

37. In a case of this nature, legal right of the respondents emanated from violation of the equality clause contained in Article 14. If they were otherwise similarly situated, there was absolutely no reason why having regard to the provisions contained in Article 39A of the Constitution of India, the respondents should be treated differently. It is, therefore, not a case where persons differently situated are being treated differently as was submitted by Mr. Saran.

40. In Haryana State Minor Irrigation Tubewells Corporation & Ors. v. G.S. Uppal & Ors. [(2008) 7 SCC 375]

"19. In S.B. Vohra case this Court dealing with the fixation of pay scales of officers of the High Court of Delhi (Assistant Registrars) held that the fixation of pay scales is within the exclusive domain of the Chief Justice, subject to approval of President/Governor of the State and the matter should either be examined by an expert body or in its absence by the Chief Justice and the Central or State Government should attend to the suggestions of the Chief Justice with reasonable promptitude so as to satisfy the test of Article 14 of the Constitution of India. Further, it was observed that financial implications vis-à-vis effect of grant of a particular scale of pay may not always be a sufficient reason and differences should be mutually discussed and tried to be solved.

20. In State of Haryana case this Court held that the High Court was in error in allowing the parity in pay scale to State Civil Secretariat PAs with Central Secretariat PAs merely because the designation was same, without comparing the nature of their duties and responsibilities and qualifications for recruitment and without considering the relevant rules, regulations and executive instructions issued by the employer and governing the cadre concerned.

21. There is no dispute nor can there be any to the principle as settled in the abovesaid decisions of this Court that fixation of pay and determination of parity in duties is the function of the executive and the scope of judicial review of administrative decision in this regard is very limited. However, it is also equally well settled that the courts should interfere with the administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors. (See K.T. Veerappa v. State of Karnataka)"

Such a question does not arise in this case as it has been found that the action on the part of the appellant is grossly arbitrary.

41. It was furthermore contended by Mr. Saran that in the event a finding is arrived at that the Central Government employees had been given, an advance increment wrongly, similar benefit may not be granted to the respondents on the premise that no equality can be claimed in illegality. Such a case has never been made out by the appellants. Even otherwise, we are of the opinion, the Central Government employees have rightly been given the benefit of one additional increment in terms of the proviso appended to Regulation 81 of the Regulations....."

[10] It is contended on behalf of the State that the case of the petitioners (respondents herein) cannot be treated for on deputation and they cannot seek any shelter comparing them be on par with any other employees and they cannot seek a relief of absorption as petitioners continued their services in Education Department only as a teacher and they did not go on deputation to any other department or State/local body. Thus they are not entitled to claim relief of absorption and consequential benefits or reliefs and prayed to dismiss the writ petitions.

[11] Heard the submissions made at the Bar. Perused the record.

[12] On perusal of record, it is a clear case that the petitioners have opted for service and their services were obtained as teacher. The above-quoted clause-3 of the memorandum dated 15th May, 2003 issued by the Director of School Education clearly indicates that there cannot be any benefit accruing out of this deputation.

[13] The petitioners joined D.I.E.T. in the year 2003 in terms of memorandum dated 17.07.2003 issued by the Director of School Education, Tripura. The same is extracted below for the purpose of reference:

"NO.F.3(1-99) DSE/2000
Government of Tripura

Directorate of School Education
Estt. Training Section

Dated, Agartala, the 17.7.2003

M E M O

Subject:- Placement of services of Post Graduate Teacher to District Institute of Education, (DIET) Abhoynagar, Agartala.

The services of the following Post Graduate Teachers are hereby placed at the disposal of the Principal, District Institute of Education, Agartala to teach 6 months abridge course teachers trainees for the period of 1(one) year from the date of joining at District Institute of Education, Abhoynagar, Agartala or till recruitment of regular teachers for DIET, Abhoynagar, Agartala whichever is earlier with the following terms and conditions:

2. Terms and Conditions

- i) While serving in the DIET, Abhoynagar, Agartala the teacher concerned will not be allowed any extra remuneration or deputation allowance during the period of deputation.
- ii) The concerned teacher also will not be allowed to claim higher scale on the plea that they are serving in the DIET, Abhoynagar, Agartala.

3. The deputation of the concerned teachers will finally be accepted by the Principal, DIET, Abhoynagar, Agartala subject to the production of written undertaking to the effect that the concerned teacher will abide by the terms and conditions laid down in the forgoing para.

4. The principal, DIET, Abhoynagar, Agartala is directed to obtain a written undertaking from the teacher concerned in the time of joining and the same copy of written undertaking should be forwarded to the Directorate of School Education, Estt. Training Section and other copy of the same will be sent to the Director, SCERT, Abhoynagar.

5. The concerned teacher are directed to report to the Principal, DIET, Abhoynagar, Agartala on 26th July, 2003 positively.

6. The concerned Head of Office shall release the concerned teachers immediately.

SL. NO	Name and Present place of posting.	Subject.
1.	Shri Manoj Kumar Deb, A/T Chebri Govt. H.S. School, Khowai.	Bengali.
2.	Shri Subash Ch Shil, A/T Tuichindraibari H.S. School, Teliamura.	Bengali.
3.	Shri Brajendra Kishore Singha, A/T Halhali H.S. School, Kamalpur.	English.
4.	Smti Nandini Bhattacharjee, A/T Taltala H.S. School, Bamutia.	English.
5.	Smti Sumita Banerjee, A/T B.K. Girls H.S. School.	Life Science.
6.	Smti Susmita Bhattacharjee, PGT, Chandrapur H.S. School, Udaipur.	Life Science.
7.	Shri Chayan Paul, PGT, Navagram H.S. School, Sadar,	Math.
8.	Shri Prasanjit Roy, A/T Bishrambari S.B. School I/S Jirania.	Math.

6. NO TA/DA will be admissible for this purpose.
7. Pay and allowances will be drawn by the concerning Head of Office after receiving the working report from the Principal, DIET, Agartala in every months.

Sd/-
(M.S. Bhattacharjee)
Director of School
Education.
Tripura."

[14] It is also seen from record that the service of Smt. Susmita bhattacharje @ Susmita Bhattacharya, respondent in WA No.197 of 2021 was extended in D.I.E.T until further order as per the memo dated 25.6.2005 issued by the Director of School Education, Tripura. For the purpose of reference, the same is extracted as under:

"No.F.1(7-1)-SE-E(NG)/2005
Government of Tripura
Directorate of School Education
Estt. (NG) Section

Dated, Agartala, the 25.6.2005

M E M O

Following 3(three) Assistant Teachers who are working at DIET, Agartala as per memos No.F.3(67)-DSE/04 dated 15.6.2004 and No.F.3(1-99)-DSE/2002 dated 15.7.2004 are hereby allowed to continue at DIET, Agartala until further order.

1. Smt. Rajkumari Kanchanprava Sinha, A/T, Banividyapith Girls H.S. School, Agartala.
2. Smt. Nandini Bhattacharjee, A/T, Taltala H.S. School, Bamutia.
3. Smt. Susmita Bhattacharjee, PGT, Chandrapur H.S. School, Udaipur.

Other terms and condition shall remain unchanged.

Sd/-
(Santanu Das)
Director of School Education
Tripura"

[15] Insofar as, the appointments made in terms of selection procedure for recruiting Lecturer by notification dated 17th June, 2004 is concerned, the same is extracted as under:

"No F2A(10-40) DSE/2001
Government of Tripura
Education (School) Department

Dated, Agartala 17th June, 2004

NOTIFICATION

In continuation of this Department Memorandum of even number dated 28.05.2004 and on recommendation of the Tripura Public Service Commission, the Governor of Tripura is pleased to appoint the following persons to the post of Lecturer, District Institute of Education and Training (D.I.E.T) in the Scale of pay of Rs.7,450-225 –

11,500-250-13,000/- plus admissible allowances purely on temporary basis and posted to the places as noted below in Col.No.3:-

Sl. No.	Name of the officers.	Posted to.
1.	2.	3.
1.	Smt. Manidipa Gan Choudhuri, (U.R.) A/T(HS), Charipara HS School, Bishalgarh	D.I.E.T., Agartala
2.	Smt. Chandana Bandyopadhyay, (U.R.) C/O: Sri Mukundalala Bandyopadhyay, Banamalipur, A.A. Road, Agartala- 799001	D.I.E.T., Kailashahar
3.	Smt. Paushali Das, (U.R.) A/T(HS), Shishu Bihar HS School, Agartala	D.I.E.T., Kakraban
4.	Sri Ashesh Datta, (U.R.) A/T (HS), Chandrapur HS School, Udaipur	D.I.E.T., Kakraban
5.	Smt. Sumita Datta, (U.R.) AT (HS), Mirza HS School, Udaipur.	D.I.E.T., Kamalpur
6.	Smt. Mallika Das, (U.R.) A/T (HS), Birendranagar HS School, Sadar	D.I.E.T., Agartala
7.	Sri Mihir Datta, (U.R.) A/T (HS), Amarpur HS School, Amarpur	D.I.E.T., Agartala
8.	Smt. Maya Mukherjee (Bhowmik), (U.R.) A/T (HS), Udaipur English Medium HS School, Udaipur.	D.I.E.T., Kakraban

2. Sl. No(s) 1, 3, 4 & 6 to 8 will join in the respective D.I.E.Ts and Sl.No.2 and 5 will report to the Deputy Director of Education, North Dist, Kailashahar and District Education Officer, Dhalai Dist., Ambassa respectively on 30th June, 2004 positively by submitting one-sided charge report under G.F.R.-33-A failing which his/her appointment shall automatically be cancelled.

3. They will remain on probation for a period of 2(two) years from the date of their joining in the post.

4. Their pay etc. will be fixed as per normal rules except under Sl.No.2.

5. The above appointments are subject to police verification reports in case anyone is found unsuitable for Government job as per police verification reports, his/her appointment shall be terminated **illegible*.

6. They are entertained against 8 of 30 temporary posts of Lecturer, D.I.E.T. cleared vide No.F.36(10)-SCERT/97/5379-125 dated 11.06.98. The expenditure on this account shall be debitable to the Head of Account:- 2202- General Education, 02- Secondary Education, 004- Research and Training (SCERT) (Non-Plan)

By order of the Governor,
Sd/-
(Ms. S. Deb)
Under Secretary to the
Government of Tripura."

[16] A fair reading of the above quoted Notification dated 17th June, 2004 clearly indicates that the selection procedure which is referred above is different and it requires the recommendations from the TPSC. Insofar as, the selection of the petitioners is concerned, it was done as per the selection procedure of the year 2003 as discussed earlier and the petitioners now cannot be entitled for any additional benefits including absorption.

The petitioner-respondents cannot compare themselves on par with the other candidates who were selected subsequent to their selection in the year 2004 by a different selection procedure in terms of the Clause-3 of the Memorandum dated 15th May, 2003 issued by the Director of School Education. The said arguments made on behalf of the petitioners cannot be appreciated and the same is devoid of merit. The judgments cited on behalf of the petitioners is of no relevant to the facts of the case as the petitioners continued their services in the Education Department only as a teacher and did not go on deputation to any other department or State/local body. We find force in the argument made on behalf of the appellant-State.

In view of the above observation, we are of the opinion that the order passed by the learned Single Judge on 09.04.2021 is liable to be set aside and accordingly, the same is set aside. Resultantly, the present writ appeals filed by the State stand allowed and the same are disposed of.

As a sequel, miscellaneous application(s) pending, if any, shall also stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

Sabyasachi G.

**SABYASACHI
GHOSH**

Digitally signed by
SABYASACHI GHOSH
Date: 2024.03.20 16:16:38
+05'30'