

**HIGH COURT OF TRIPURA  
AGARTALA**

**Cont. Cas(C) No.71 of 2022**

Sri Dipak Das & others  
..... Petitioner (s).  
Versus  
Sri Jitendra Kumar Sinha & others  
..... Respondent(s).

**Cont. Cas(C) No.72 of 2022**

Sri Indrajit Debnath & others  
..... Petitioner (s).  
Versus  
Sri Jitendra Kumar Sinha & others  
..... Respondent(s).

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|-------------------|---|--------------------------------------------------------------------------------------------------------|
| For Petitioner(s) | : | Mr. P. Roy Barman, Sr. Advocate,<br>Mr. Samarjit Bhattacharjee, Advocate,<br>Mr. Kausik Nath, Advocte. |
| For Respondent(s) | : | Mr. D. Sarma, Addl. G.A.                                                                               |

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

**Order**

**14/03/2024**

Heard learned counsel for the parties in both the matters.

[2] These two contempt petitions were kept in abeyance in view of the pendency of the WA No. 118/2022 and WA No.120/2022 preferred by the appellant-State being aggrieved by the directions contained in the judgment under offence. The learned appellate Court has decided these two appeals by setting aside that portion of the judgment of the Hon'ble Single Judge *"to the extent of the direction of creation of posts within six months from the date of passing of the judgment"*. The posts have not been created till date which is not in dispute.

[3] Mr. P. Roy Barman, learned senior counsel for the petitioner has drawn the attention of this Court to the penultimate paragraph of the order under offence where the writ Court has observed as under:

Thus, the government is under constitutional duty to consider the absorption of the petitioners after creation of posts of GDA in the regular establishment. Exercise of creation of posts shall be completed within six months from today as the petitioners are discharging duties of GDAs. On survey, it has appeared that those assignments are perennial in nature, not a stop-gap mechanism. The enhancement of the wages as directed above shall be made within a period of three months from the day when a copy of this judgment will be made available to the respondents.

[4] Mr. Barman, learned senior counsel for the petitioner has also drawn the attention of this Court to the submission of the learned senior Government Advocate at internal page-4 of the order where he has acceded that the petitioner may be entitled to draw the wages at the minimum of the pay scale at the lowest grade of the regular pay scale, meant for GDA, for discharging the similar duties. Learned senior counsel for the petitioner has prayed that the observations in the penultimate paragraph of the order under offence should be understood in the background context. The learned writ Court taking into account the grievance pleaded by the petitioner and the submission of the learned senior Government Advocate rightly observed that the enhancement of wages should be made within a period of three months from the day when a copy of the judgment is made available to the respondents. The expression 'as directed above' may be just a slip of pen otherwise the sentence is complete in all respects and should have been given effect by the respondents. Till date the enhancement of wages to minimum scale has not been granted to these petitioners neither the posts have been created. Therefore, the respondents may be hauled up for contempt of the order dated 08.02.2022.

[5] Mr. D. Sarma, learned Additional Government Advocate has also placed the same part of the order under offence before this Court and pointed that the operative directions of this order only relate to creation of posts within a time bound manner for regularization of the petitioners. The penultimate paragraph referred to by the petitioners do not amount to a specific directions as being read by the petitioners. The submission of the learned senior Government Advocate referred to at page-4 of the order under offence would not amount to a direction of the Court. As such, there is no specific direction for enhancement of wages to the minimum scale of pay, as is being understood by the petitioners. Therefore, the respondents cannot be said to be in contempt so far as that submission is concerned. However, learned additional Government Advocate does not dispute that the posts have not yet been created.

[6] It appears that these contempt petitions have been pending since 2022 on account of pendency of writ appeals preferred by the State of Tripura against the order under offence. The operative part of the order contains a direction upon the Government to take initiative for creation of posts and absorption of the petitioners on assessment of their performance within a period of three months from the date of creation of the posts. The learned appellate Court has interfered with this part of the order so far it stipulates a period within which posts have to be created for absorption of the petitioners. The respondents may have been sitting over the matter due to pendency of the writ appeals which have been disposed of in the last month i.e. on 08.02.2024. So far as the observations of the learned writ Court in the penultimate paragraph of the order under offence is concerned, it appears to the Court that

there were no “directions as above” indicated in the last part of the penultimate paragraph regarding enhancement of wages. However, a complete reading of the order together with the observations made by the learned writ Court indicates that the learned writ Court made an observation on the enhancement of wages of the parties within a period of three months. The learned Appellate Court left it open for the respondent to consider creation of posts. As such, it is for the respondents to take a decision on the issue of creation of posts and also on the observations made in the penultimate paragraph of the order on the question of enhancement of wages of the petitioners within a reasonable time.

[7] The contempt petitions are accordingly disposed of. Pending application(s), if any, also stands disposed of.

**(APARESH KUMAR SINGH), CJ**

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