

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.529 of 2023

Sri Dinesh Dutta, son of Sri Late Jayanta Dutta, resident of village Gourangar, P.O. Samatal Padmabill, P.S. Khowai, District-Khowai, aged about 55 years.

....Petitioner(s)

Versus

- 1. The State of Tripura**, represented by the Commissioner & Secretary, Education Department, Government of Tripura, having his office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division-Sadar, District-West Tripura.
- 2. The Commissioner & Secretary**, Education Department, Government of Tripura, having his office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division-Sadar, District-West Tripura.
- 3. The Director**, Department of Elementary Education, Government of Tripura, having its office at Shiksha Bhawan Office Lane, P.O. Agartala, P.S. West Agartala, District-West Tripura.
- 4. The State Project Director**, Samagra Shiksha Abhiyan (erstwhile Sarva Shiksha Abhiyan) having its office at Shiksha Bhawan, Office Lane, P.O. Agartala, P.S. West Agartala, District-West Tripura.

....Respondent(s)

For the Petitioner(s)	:	Mr. Somik Deb, Sr. Advocate Mr. P. Chakraborty, Advocate
For the Respondent(s)	:	Mr. S.S. Dey, Advocate General Ms. A. Chakraborty, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

13/09/2024

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. P. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. S.S. Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel appearing for the respondents-State.

By means of filing the instant writ petition, the petitioner has prayed for counting his past service for the period he served as contract teacher for upper primary under SSA scheme.

The case of the petitioner is that during his service tenure as contract Teacher for upper primary under SSA, the petitioner having qualified in

TET appeared in the selection process for appointment to the post of Post Graduate Teachers. The petitioner submitted technical resignation which was accepted by the competent authority. Having successful in the examination, the petitioner was appointed to the post of Post Graduate Teacher under the State Education Department. After such appointment, the petitioner had submitted representation to count his past service for the period he had served as contract teacher for upper primary under SSA scheme, which was not considered by the respondents-State. Hence, this writ petition.

Both the learned counsel appearing for the parties had relied upon a judgment passed by this Court in ***Sri Uttam Kumar Das and Ors. vs. State of Tripura and Ors.*** in ***WP(C) No.901 of 2021*** and other connected writ petitions. While disposing of the writ petition filed by Sri Uttam Kumar Das, learned Single Judge of this Court vide judgment and order dated 20.05.2022 had observed and decided thus:

*“[10] If that observation of the apex court in **Ajoy Debbarma** (supra) is read with Para-125 of **Tanmoy Nath** (supra) it becomes clear that if the persons who were selected in the previous selection are again selected, then the service rendered by them earlier shall be counted for the purpose of seniority, pension and all other purposes. It is an unambiguous direction, not factored by any other considerations. It is apparent that the persons who are appointed during the period of age relaxation should be given the benefit of the past service. In **Sangita Reang** (supra) this court had occasion to direct that the candidates who fall broadly in the three categories as identified, would be extended the benefit in the manner as reiterated below:*

(i) In case of Category-I cases, the petitioners shall receive full benefit of the past service for the purpose of seniority, pension and all other purposes.

(ii) In Category-II cases, past service rendered by the petitioners will be counted for the purpose of pension, pay fixation and all other purposes except for seniority. In other words, it is provided that the pay of these petitioners would be fixed in their respective posts pursuant to fresh appointments taking into account entire past service rendered by them and bearing in mind the principles contained in F.R.22 of the Fundamental Rules. However, their past service shall not count towards seniority. They would be placed at the bottom of seniority as on the date of their fresh appointments. It is clarified that these directions shall not enable any other teachers in the same cadre or any other cadre to claim upgradation of his/her pay by seeking removal of anomaly or in any other manner.

(iii) In Category-III cases, the petitioners" past service would be counted for the limited purpose of retaining their leave credit, provident fund, pension and gratuity and further that they will be placed in the regular scale of pay from the date of their fresh appointment and the pay will be fixed at the minimum of the scale. They would receive all admissible allowances."

Both the learned counsel for the parties have submitted that the respondents may be directed to consider the case of the petitioner, if the reliefs claimed by the petitioner is squarely covered by the decision rendered in the case of ***Sri Uttam Kumar Das***(supra).

Such consideration shall be taken within a period of 2(two) months. Needless to say, if the respondents find the petitioner eligible to get the similar benefit as provided in the case of ***Sri Uttam Kumar Das*** (supra), then, such benefit shall be extended to the petitioner.

With the aforesaid observations and directions, the instant writ petition stands disposed.

JUDGE

Snigdha

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KAR

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