

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.111 of 2023

Sri Tarun Chandra Shil

..... Appellant(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Appellant(s) : Mr. D.K. Daschoudhury, Advocate.

For Respondent(s) : Mr. N. Majumder, Advocate.

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

Order

05/02/2024

Heard Mr. D.K. Daschoudhury, learned counsel for the appellant and Mr. N. Majumder, learned counsel for the respondents-TSECL.

2. The service of the appellant as a Contingent worker for ten years since 01.01.1999 was regularized by appointment order bearing No.F.6(151)-TSECL/05/Pt-2/9,144-391 dated 02.04.2011 [Annexure-6] in consonance with the scheme of regularization of services of DRWs/Casual/Contingent etc. workers under the Power Department as per memorandum dated 09.06.2009 [Annexure-5] after due verification of necessary certificates/documents to the post of Helper Gr-II in the scale of pay of Rs.4530-13000/- (Pay Band – I + Grade Pay – Rs. 1200/-) and other admissible allowances with terms and conditions laid down in the appointment letter along with 236 other such DRW/Contingent workers, etc. under the Corporation.

3. Appellant's case for giving effect to the regularization from 01.01.2009 pursuant to an order passed in his case in WP(C) No.29/2021 was declined by the Managing Director (I/C), TSECL vide letter No.F.3(50)-

TSECL/HRM/Court Case/2022/15237-53 dated 01.04.2023 with the observation that appellant is not found suitable for further consideration with effect from 01.01.2009, which is beyond the scope of TSECL. Being aggrieved, he approached the Writ Court once again in WP(C) No.438/2023 which has been dismissed vide impugned order dated 27.07.2023 taking note of the relevant attendant facts with the observation that if the appellant was not found suitable for regularization from an anterior date, the Writ Court could not determine the suitability of an employee in place of the employer. Learned Writ Court, therefore, refused to interfere in the order.

4. Mr. D.K. Daschoudhury, learned counsel for the appellant, submits that the benefit of the regularization scheme of 09.06.2009 ought to have been given effect to on completion of ten years of engagement of the appellant as Contingent Worker that accrued from 01.01.2009 reckoned from 01.01.1999. The delay in the exercise for regularization would adversely affect the appellant.

5. Mr. N. Majumder, learned counsel for the respondents-TSECL, submits that the exercise for regularization of 237 DRWs/Casual/Contingent etc. workers under the regularization scheme of 09.06.2009 entailed detailed verification exercise of all those workers and as such, the appointment order was issued on 02.04.2011 after they were found fit for being regularized. The case of the appellant was reconsidered upon direction of the learned Writ Court in the earlier round of writ petition, but no exception could be made to his case. It is submitted that the regularization scheme has been abolished by the Government of Tripura by the memorandum dated 31.07.2018. Appellant

should feel satisfied with his regularization from the due date as per the appointment order dated 02.04.2011.

6. On consideration of rival submission of the parties and the pleadings placed from record, we do not find any infirmity in the order of the learned Writ Court. Appellant cannot make an exception of his case for shifting his date of regularization to 01.01.2009 when the regularization of petitioner and other 236 such DRWs/Casual/Contingent workers together were undertaken by the respondents-Corporation on the basis of the regularization scheme vide memorandum dated 09.06.2009. The process entailed detailed verification of the eligibility of individual incumbents and consideration of other factors such as educational qualification, age, reservation quota, etc. Upon reconsideration, the respondents-Corporation did not find the plea of the appellant tenable.

7. The findings of the learned Writ Court do not suffer from errors on those grounds. As such, we are not inclined to interfere in the impugned order of the learned Writ Court.

8. The instant appeal stands dismissed. Pending application(s), if any, shall stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

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