

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 616 of 2023

Bhanu Bibi

---Petitioner(s)

Versus

The State of Tripura and 5 Ors.

---Respondent(s)

For Petitioner(s)	:	Mr. P Roy Barman, Sr. Advocate. Ms. S. Debbarman, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI Mr. D. C. Saha, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

05.08.2024

Heard learned counsel for the parties.

[2] This is a petition under Article 226 of the Constitution of India for seeking the following relief(s):

- (i) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to count 50% of the service rendered by the Petitioner w.e.f. 22.11.1999 till her regularization on 22.11.2009 along with the regular service rendered by the Petitioner from 22.11.2009 to 31.01.2023 for determining the qualifying service years rendered by the Petitioner necessary for calculation of pension and other pensionary benefits.*
- (ii) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to recalculate the amount of monthly pension and other pensionary benefits including DCR Gratuity which became admissible to the petitioner taking into consideration 50% of service rendered by the Petitioner as School Mother on fixed pay basis w.e.f. 22.11.1999 to 22.11.2009 with her Regular service as School Mother w.e.f. 22.11.2009 to 31.01.2023 and pay the arrear amount of pension with interest @9% per annum and thereafter to continue the current pension.*
- (iii) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to pay interest @9% on delayed payment of pension and other pensionary benefits.*
- (iv) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to pay the amount of gratuity and pensionary benefit which became admissible to the Petitioner on her retirement from service after adding 50% of service rendered by the Petitioner as School Mother on fixed pay basis with her regular service in the post of School Mother for determining the qualifying service of the Petitioner and pay the balance amount after deducting the payment already made with interest @ 9% per annum on the balance amount with effect from the date it became payable till such payment is made.*

- (v) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby quashing and cancelling the letter, dated, 05.09.2023, issued by the Director, Social Welfare & Social Education, Agartala, Tripura*
- (vi) *Make the rules absolute.*
- (vii) *Call for records.*
- (viii) *Pass any further order/orders as this Hon'ble High Court considers fit and proper.*

[3] It is the case of the petitioner that the petitioner was serving as School Mother under the Directorate of Social Welfare & Social Education, Govt. of Tripura since 22.11.1999. Vide Memo, dated, 16.12.2009, issued by the Director, Social Welfare and Social Education, Govt. of Tripura the petitioner was regularised to the post of School Mother on completion of 10 years of her service. The petitioner has filed this instant writ petition for seeking necessary direction upon the respondents to recalculate the pension and other pensionary benefit taking 50% of service rendered by the petitioner as School Mother w.e.f. 22.11.1999 to 22.11.2009, along with the regular service rendered by the petitioner as School Mother and to quash and cancel the letter, dated, 05.09.2023, issued by the Director, Social Welfare & Social Education, Agartala, Tripura.

[4] It is seen from the record that on 12.02.2024 it was apprised to this court that the subject matter which is involved herein is pending for adjudication by way of Writ Appeals, being 61 of 2023 and other batch matters before a Division Bench of this Court and hence the matter was adjourned sine-die.

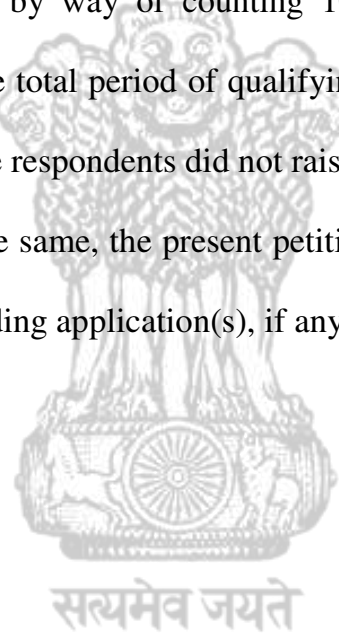
[5] Today when the matter is called both the counsel have placed on record the order dated 29.04.2024 of the Division Bench passed in WA 61 of 2023 and other batch matters whereby the State has preferred an appeal aggrieved by the order dated 21.08.2017 passed in WP(C) 853 of 2017. The learned Division Bench has dismissed the appeal preferred by the State observing as under:

“...On facts, the cases of the present petitioners/respondents herein do not carry any distinction. There petitioners would also have served more than ten years for reckoning the qualifying service for pension; but in terms of the ratio rendered in the case of Smt. Mamata Rani Roy (Saha) (supra), they would also have the benefit of counting their past services for reckoning the total period of qualifying service for pensionary benefits.

7. Since this Court has rendered a decision on the same issue earlier which stands complied with and there are no distinguishing features in the cases of the present petitioners/respondents herein, we do not find any reason to interfere in the impugned judgments. Accordingly, the instant appeals are dismissed. Pending interlocutory applications shall stand closed."

[6] In so far as the present writ petition is concerned. It is represented by counsel appearing for both the parties that the petitioner is entitled for the same relief as was granted by the order dated 29.04.2024 of the Division Bench of this Court. It is seen from the record that the petitioner has unmindfully sought for counting only 50% of the service rendered at the time of filing the instant writ petition. This Court feels that in the light of the judgment dated 29.04.2024 of the Division Bench, similar benefit may be granted to the petitioner herein. Accordingly, this court directs the respondents to consider the case of the petitioner by way of counting 100% of the service rendered by the petitioner for reckoning the total period of qualifying service for pensionary benefits. To this, learned counsel for the respondents did not raise any dispute.

[7] In view of the same, the present petition stands allowed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.



JUDGE

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