

**HIGH COURT OF TRIPURA  
AGARTALA**

**WA No.141 of 2023**

1. Sri Haripada Debnath, S/O- Lt. Matilal Debnath, resident of Narsingarh, P.O.- Narsingarh, P.S.- Airport, Dist: West Tripura, Pin-799015.
  2. Sri Suman Roy, S/o- Sri Pramod Roy, R/o- Bagadi, Narsingarh, P.O.- Narsingarh, Dist.- West Tripura, Pin-799015.
  3. Sri Samir Ranjan De, S/O-Lt. Sudir Chandra De, resident of Narsingarh, P.O.- Narsingarh, P.S.- Airport, Dist: West Tripura, Pin-799015.
  4. Sri Haripada Deb, S/oLt. Ashutosh Deb, resident of Narsinghar, P.S. Airport, P.O. Narshinghar, Dist.- West Tripura, Pin-799015.
  5. Smt Laxmi Rani Dey, D/o-Lt. Sankar Deb, resident of - Narshinghar, P.S.Airport, P.O. - Narshinghar, Dist.- West Tripura, Pin-799015.
  6. Smt. Jharna Datta, W/o-Lt. Rakesh Datta, resident of Narshinghar, P.S. Airport, P.O.- Narshinghar, Dist.- West Tripura, Pin-799015.
  7. Smt. Jaba Das, W/o-Sri Kajal Banik, resident of-Narshinghar, P.S. Airport, P.O. Narshinghar, Dist.- West Tripura, Pin-799015.
  8. Smt. Kalpana Sutradhar (Malakar), W/o- Sri Siddhartha Sutradhar (Malakar), resident of-Narshinghar, P.S. Airport, P.O. Narshinghar, Dist.- West Tripura, Pin-799015.
  9. Sri Tinku Chakraborty, S/o-Sri Badal Chakraborty, resident of-Narshinghar, P.S. Airport, P.O. Narshinghar, Dist.- West Tripura, Pin-799015.
- ..... Appellant(s)

**V E R S U S**

1. The State of Tripura, represented by the Commissioner & Secretary to the Govt. of Tripura, Education (Higher) Department, Civil Secretariat, Capital Complex, P.O-Kunjaban, P.S-East Agartala Dist-West Tripura, Pin-799006.
  2. The Director of Higher Education, Government of Tripura, Old Secretariat Complex, P.O-Agartala, Dist- West Tripura.
  3. The Secretary, Finance Department, Govt. of Tripura, New Secretariat Complex, Gorkha Basti, P.O. Kunjaban, P.S. East Agartala, Dist. - West Tripura
  4. The Principal, Tripura Institute of Technology, Narsingarh, P.O. & P.S- Airport, Pin-799009, Dist - West Tripura
- ..... Respondent(s)

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|---------------------|------------------------------------------------------------|
| For Appellant (s) : | Mrs. S. Deb (Gupta), Advocate,<br>Ms. Rumpa Dey, Advocate. |
| For Respondent(s) : | Mr. D Sharma, Addl. G.A.                                   |

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

Date of hearing & Judgment: **06.08.2024**

Whether Fit for Reporting : **YES**

**JUDGMENT & ORDER (ORAL)**

Heard Mrs. S. Deb (Gupta) learned counsel together with Ms. Rumpa Dey, learned counsel for the appellants/writ petitioners and Mr. D. Sharma, learned additional Government Advocate for the respondents.

[2] The writ petitioners approached the writ Court for regularization of their services. Individual details of the writ petitioners as culled from the writ record are indicated in paragraph No.3 of the impugned judgment which has extracted hereunder to avoid repetition:

“3. The facts of the case, as it reveals from the writ petition, in brief, are that the petitioners were engaged in erstwhile polytechnic Institute, now renamed as Tripura Institute of Technology (TIT) under a scheme by the competent authority. The petitioners no.1 engaged in service as Group D Casual Worker, Peon (Full Time) on 01.04.1989, the petitioner no.2 joined as Night Guard, Casual Worker on 10.04.2003, the petitioner no.3 joined in service as Watch and Ward, Casual worker (4 hours) on 01.04.1987, the petitioner no.4 joined in service as Lab Helper (Mechanical Shop) Casual Worker (Full Time) on 22.05.1995, the petitioner no.5 joined in service as Workshop Helper, Group-D casual worker (full time) on 01.01.1996, the petitioner no.6 joined in service as Workshop Helper (Fitting Shop) GroupD Casual Worker (Full Time) on 14.08.2004, the petitioner no.7 joined in service as Supplying of drinking water, Group-D Casual Worker (Full Time) on 02.05.2004, the petitioner no.8 joined in service as Workshop Helper Group-D Casual Worker (Full Time) on 10.09.2004, the petitioner no.9 joined in service as Group-D Casual Worker (Full Time) on 05.05.2004 and till then they have been rendering their service in the said post.”

[3] Further, the case of the writ petitioners are based on letter dated 03.09.2012 (Annexure-10 of the writ petition) issued by the Principal, Tripura Institute of Technology (TIT), Narsingarh, Tripura West (respondent No.4) to the Director, Education (Higher) Department, Government of Tripura, Agartala, Tripura (W) (respondent No.2) for their regularization on the grounds that they were working in TIT without any interruption. Writ

petitioners also made representations on 07.01.2014 (Annexure-18 of the writ petition) to the Director of Higher Education; 10.02.2014 (Annexure-19 of the writ petition) to the Hon'ble Education Minister (Higher), Government of Tripura, Agartala and on 17.10.2014 (Annexure-20 of the writ petition) to the Secretary, Higher Education, Government of Tripura for their regularization. Proposal for regularization was further repeated by respondent No.4 vide letters dated 15.01.2014 (Annexure-14 of the writ petition), 17.01.2014 (Annexure-15 of the writ petition) and 30.01.2014 (Annexure-16 of the writ petition). Writ petitioners claim themselves to be fully covered by the memorandum dated 21.01.2009 i.e. the scheme for regularization of the services of DRWs/ PTWs/ Casual/ Contingent etc workers. However, this regularization scheme had been repealed vide memorandum dated 31.07.2018 before the writ petitioners approached the Court in WPC No.587/2023. Writ petitioners also canvassed that other persons from the same list (Annexures-10, 14, 15 and 16) were regularized pursuant to the directions passed in their case by the writ Court. There are two set of petitioners who have been regularized out of the same list as above proposed by respondent No.4 to respondent No.2 and all those stand on similar footing as that of the present writ petitioners since their engagement was done with concurrence of the Finance Department. Some of the writ petitioners though had joined after 31.03.2003 but their engagements were with concurrence of the Finance Department. Petitioners pleaded that there was no reason why they were singled out from the benefit of regularization when persons similarly situated and from the same list have been regularized only because they had approached the writ Court. The learned writ Court, however, held that their claim for regularization is barred

by delay and moreover, there is no scheme of regularization in existence. The learned writ Court also went on to hold that the nature of the appointments of the writ petitioners were not only irregular but illegal. Being aggrieved, the writ petitioners have come in appeal.

[4] Mrs. S. Deb (Gupta) learned counsel for the appellants/writ petitioners submits that writ petitioners are entitled for regularization on the principles of parity vis-à-vis other similarly situated persons. The other set of petitioners covered by the judgment dated 05.07.2021 in WP(C) No.210/2021 and WP(C) No.211/2021 upheld in appeal vide judgment dated 07.09.2021 passed in WA No.249/2021 and also upheld by the Apex Court vide judgment dated 09.01.2023 passed in Special Leave Petition (Civil) diary No(s).8546/2022, had approached this Court after repeal of the scheme vide memorandum dated 31.07.2018, as persons similarly situated to them and the petitioners were regularized by a memo dated 31.08.2021 pursuant to the directions dated 04.03.2016 passed in WP(C) No.229/2015, judgment dated 02.12.2016 in WP(C) No.140/2016 and judgment dated 12.04.2018 in WP(C) No.50/2015. All those petitioners who were covered under memo dated 31.08.2021 and 25.09.2023 are borne on the list proposed by the respondent No.4 to respondent No.2 vide letters dated 03.09.2012 (Annexure-10 of the writ petition), 15.01.2014 (Annexure-14 of the writ petition), 17.01.2014 (Annexure-15 of the writ petition) and 30.01.2014 (Annexure-16 of the writ petition) referred to hereinabove.

[5] It is therefore, submitted that not only the engagement of these writ petitioners were irregular and not illegal as held by the learned writ Court but there was no basis for the respondent-State to deny regularisation to the

present set of petitioners when out of the same list other persons have been regularized pursuant to the directions passed by this Court as upheld upto the Supreme Court even after the repeal of the regularization scheme vide memo dated 31.07.2018. Learned counsel for the writ petitioners submits that therefore, this Court may direct the respondents to regularize the services of the writ petitioners on similar line by giving them service benefits notionally from the date of completion of 10 years of their engagement and financial benefits prospectively from the date of their regularization. The impugned judgment may, therefore, be set aside.

[6] Mr. D. Sharma, learned Additional Government Advocate for the State has opposed the prayer. He has drawn the attention of the Court to the counter affidavit filed by respondent Nos.1 to 4. The substance of the stand of the respondents in their counter affidavit is that the services of writ petitioner Nos.1, 4, 5, 6, 7 & 8 excluding petitioner No.3 have been regularized as DRW *with effect from 29.12.2015* with prospective effect i.e. from the date of their joining. It is also stated that the regularization scheme has been abolished *with effect from 31.07.2018*. Therefore, there is no scheme in existence whereby the services of the writ petitioners can be regularized. The writ petitioners were earlier engaged in a centrally sponsored scheme. The affidavit also states that the department has complied the judgment and order passed by the High Court of Tripura in WP(C) No.210/2021 and WP(C) No.211/2021 dated 05.07.2021 by regularizing the services of those writ petitioners to the post of Group-C (LDC) & Group-D. He submits that the judgment of the learned writ Court is correct and needs no interference. Learned Additional Government Advocate, however, has not been able to dispute the contention of the writ petitioners that the names of the writ petitioners were also present

in the list proposed by respondent No.4 to respondent No.2 vide letters dated 03.09.2012 (Annexure-10 of the writ petition), 15.01.2014 (Annexure-14 of the writ petition), 17.01.2014 (Annexure-15 of the writ petition) and 30.01.2014 (Annexure-16 of the writ petition) out of which other set of writ petitions some have been regularized by virtue of the orders passed by this Court.

[7] We have considered the submissions of the learned counsel for the parties and taken note of the relevant materials placed form record. We have also gone through the impugned judgment. The factual position as it stands is evident from the tabular chart furnished by the learned counsel for the writ petitioners in respect of the communications dated 03.09.2012 (Annexures-10 of the writ petition), 15.01.2024 (Annexure-14 of the writ petition), 17.01.2024 (Annexure-15 of the writ petition) and 30.01.2014 (Annexure-16 of the writ petition) referred to hereinabove. Out of these four letters addressed by respondent No.4, four persons who had approached the writ Court earlier namely Sri Kaushik Bhattacharjee, Sri Sajal Kar, Sri Biplab Datta and Sri Uttam Das have been regularized vide memo dated 31.08.2021 with notional benefits from the date of their completion of 10 years of engagement. Out of this list another set of writ petitioners namely Sri Litan Bardhan, Sri Ajit Das, Sri Swapan Biswas and Sri Swarup Saha have been regularized by memo dated 25.09.2023 pursuant to the order passed by this Court in WP(C) No.210/2021 and WP(C) No.211/2021 dated 05.07.2021 upheld by judgment dated 07.09.2021 passed in WA No.249/2021 and judgment dated 09.01.2023 passed in SLP(C) No.8546/2022. In their cases also the benefits have been given notionally from the date of completion of 10 years of their engagement and prospectively form the date of their

regularization. Learned counsel for the writ petitioners have furnished a tabular chart of the previous set of petitioners who have been regularized and the present set of petitioners falling in the same list (Annexures-10, 14, 15 and 16). It therefore, appears that the respondents-State has regularized only those persons who approached the Court. One set of writ petitioners, as above, who were regularized on 25.09.2023 had in fact approached the Court vide WP(C) No.210/2021 and WP(C) No. 211/2021 after repeal of the regularization scheme on 31.07.2018. The judgment passed by the writ Court dated 05.07.2021 was upheld upto the Apex Court and consequently those four persons named above were duly regularized.

[8] As such, the writ petitioners falling in the same list have been left out while others have been regularized only because they had approached this Court in the year 2023. Moreover, when the regularization of the second set of writ petitioners have been undertaken vide memo dated 25.09.2023. Therefore, on principles of parity we find that there are no distinguishing features in the case of the present writ petitioners to deny the benefit of regularization except that they have approached the Court in the year 2023 when their other fellow colleagues were regularized in service. If on all other counts, the case of the writ petitioners stands on equal footing with that of the other set of writ petitioners, we are of the considered view that non consideration of their claim for regularization would not be proper. Reliance is placed on the case of *State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava* reported in (2015) 1 SCC 347, more particularly para 22, which is extracted hereunder:

“22. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under.

**22.1.** The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

**22.2.** However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

**22.3.** However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see *K.C. Sharma v. Union of India* [*K.C. Sharma v. Union of India*, (1997) 6 SCC 721 : 1998 SCC (L&S) 226] ). On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

[9] As such, respondents are directed to consider the cases of the present writ petitioners for regularization on similar lines in accordance with law. Upon consideration, if the writ petitioners are regularized, the benefits would notionally accrue to them from the date of their completion of 10 years of engagement and prospectively from the date of regularization. Let such consideration be made within a period of three months from the date of receipt of copy of this order.

[10] The impugned judgment is, accordingly, set aside. The instant appeal is allowed in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

**(S. D. PURKAYASTHA), J**

**(APARESH KUMAR SINGH), CJ**

*Munna S* MUNNA SAHA Digitally signed by MUNNA SAHA  
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