

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.694 of 2023

Smt. Dipti Marak

....Petitioner(s)

Versus

The State of Tripura and 2 Ors.

....Respondent(s)

For the Petitioner(s)	:	Mr. A. Bhaumik, Advocate
For the Respondent(s)	:	Mr. Kohinoor N. Bhattacharyya, GA

HON'BLE MR. JUSTICE ARINDAM LODH

Order

25/01/2024

By means of filing the instant writ petition, the petitioner has prayed for following reliefs:

“i) Issue notice upon the Respondents.

ii) Call for the Records.

iii) Issue Rule calling upon the Respondents to show cause as to why the Petitioner shall not be granted the benefit of one increment under Rule 13(1)(v) of the TSCS (RP) Rules, 2009 along with all arrears of financial benefit.

AND

Issue Rule calling upon the Respondents to show cause as to why the memorandum dated 6th July, 2011 issued by the Finance Department, Government of Tripura shall not be set aside and quashed.

AND

Issue Rule calling upon the Respondents to show cause as to why the Petitioner shall not be granted the benefit of one increment as per the Judgment and Order at Annexure 6 and 7 of this Writ Petition as upheld by the judgment of the Ld. Division Bench at Annexure-8 of this Petition.

iv) And after hearing the parties, be pleased to make the rule absolute.

AND/OR

Pass any other order/orders as deemed fit and proper by this Hon'ble Court."

The fact of the case is that the petitioner was appointed as a Graduate Teacher under the respondents vide memorandum dated 14.06.2005. Thereafter, on completion of 5 years of service the petitioner was extended with the benefit of regular pay scale vide memorandum dated 04.08.2010. The petitioner in the present writ petition highlighted that she had completed Certificate Course in Teacher Education Examination (CCTE) from Tripura University on 25.04.2008 and she completed T.Ed. after entry into service but prior to 01.01.2009. It is the grievance of the petitioner that since she completed her T.Ed. after entry into service but, prior to the cut-off date, she is entitled to one advance increment under Rule 13(1)(v) of the TSCS (RP) Rules, 2009 (for short, Rules of 2009). The memorandum dated 6th July, 2011(Annexure-5 to the writ petition) restricts the operation of Rules of 2009 and is illegal being violative of the statute and it is a settled law that instructions/orders/memorandums cannot supplement the rules but can supplant the rules. Vide memorandum dated 6th July, 2011, the respondents have decided to grant lumpsum benefit which is not there in the Rules of 2009 and as such, the said memorandum dated 6th July, 2011 is illegal and requires interference in this regard.

This Court in ***W.P.(C) No.602/2021*** titled as ***Sri Sanjan Das vs. The State of Tripura and 2 Ors.*** vide judgment and order dated 19.01.2022 held that in-service Teachers who completed B.Ed. Degree after entering into service and prior to 01.01.2009 would be entitled to one advance increment. The said judgment was challenged in an intra-court appeal, which was dismissed.

I have considered the submissions of learned counsel appearing for the parties.

It is admitted position that the petitioner obtained T.Ed. Degree prior to the cut-off date i.e. 01.01.2009 and as per Rules of 2009, the petitioner is entitled to get one advance increment instead of lumpsum amount.

The instant writ petition is also covered by the decision of the learned Court in ***Sanjan Das(supra)***.

In view of this, I direct the respondents to pay one advance increment to the petitioner. The respondents are directed to pay one advance increment in the light of the judgment passed in the case of *Sanjan Das(supra)*.

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

JUDGE

Snigdha

SANJAY Digitally signed by
GHOSH SANJAY GHOSH
Date: 2024.01.29
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