

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.717 of 2023

Sri Jayanta Roy vrs. The State of Tripura and 2 Ors.

WP(C) No.718 of 2023

Sri Dipjoy Saha vrs. The State of Tripura and 2 Ors.

WP(C) No.719 of 2023

Sri Kartik Debnath vrs. The State of Tripura and 2 Ors.

WP(C) No.720 of 2023

Smt. Pratima Sharma vrs. The State of Tripura and 2 Ors.

WP(C) No.721 of 2023

Sri Jacob Debbarma vrs. The State of Tripura and 2 Ors.

WP(C) No.722 of 2023

Smt. Hiranya Debnath vrs. The State of Tripura and 2 Ors.

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate Ms. A. Debbarma, Advocate
For the Respondent(s)	:	Mr. Ratan Datta, Advocate Mr. D. Sarkar, Advocate Mr. H. Sarkar, Advocate Mr. P. Saha, Advocate Mr. A.K. Pal, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

22/04/2024

The above bunch of writ petitions involves similar and identical points of law and facts, and as such, these are taken up and heard together for disposal with the consent of learned counsel appearing for the parties.

2. Heard Mr. P. Roy Barman, learned senior counsel assisted by Ms. A. Debbarma, learned counsel appearing for the petitioners. Also heard Mr. D. Sarkar, learned counsel appearing for respondents no.1 in WP(C) No.717 of 2023, Mr. H. Sarkar, learned counsel appearing for respondent no.1 in WP(C) No.719 of 2023, Mr. P. Saha, learned counsel appearing for respondent no.1 in WP(C) No.720 of 2023, Mr. A.K. Pal, learned counsel appearing for respondent no.1 in WP(C) No.721 of 2023 and Mr. Ratan

Datta, learned counsel appearing for respondents no.2 and 3 in all the writ petitions.

3. By means of filing the above bunch of writ petitions, the petitioners have prayed for granting regular pay scale in terms of the employment notification dated 24.11.2016(*Annexure-1* to the WP(C) No.717 of 2023). WP(C) No.717 of 2023 and WP(C) No.718 of 2023 relate to the petitioners who were appointed on fixed pay basis in the post of LDC cum Data Entry Operator and WP(C) No.719 of 2023, WP(C) No.720 of 2023, WP(C) No.721 of 2023 and WP(C) No.722 of 2023 relate to the petitioners who were appointed as Group-D employees on fixed pay basis.

4. It is the plea of the petitioners that in terms of the employment notification dated 24.11.2016 they were initially appointed on fixed pay basis for 5(five) years and it is clearly stipulated in the said notification that after completion of 5(five) years of service on fixed pay basis they would be entitled to get the benefit of regular pay scale prescribed for the respective post against which they were appointed.

5. The petitioners have in the meantime completed 5(five) years of service on fixed pay basis, but, they are not given the benefit of regular pay scales. They approached the respondents by way of submitting representations but those representations were not responded to, compelling them to file the present bunch of writ petitions.

6. In WP(C) 717 of 2023, the petitioner has prayed for the following reliefs:

“(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to grant regular scale of pay on completion of 5 years service as LDC cum DEO on fixed pay basis.

(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to forward arrear pay and allowances to the Petitioner on completion of 5 years service as LDC cum DEO on fixed pay basis with 9% interest.

(iii) Make the rules absolute.

(iv) Call for records.

(v) Pass any further order/orders as this Hon'ble High Court considered fit and proper."

7. I have perused the relevant documents enclosed to the writ petitions as annexures. The employment notification dated 24.11.2026 may be reproduced hereunder:

*"TRIPURA BOARD OF SECONDARY EDUCATION
P.N. Complex, Gorkhabasti, P.O- KUNJABAN, Agartala
Tripura West, PIN-799006*

No. F.2(98)-TBSE/2006

Dated, Agartala the 24th November, 2016

EMPLOYMENT NOTIFICATION

Advertisement No - 01/2016

Applications are invited in prescribed Application Forms from bonafide citizens of India permanently residing in Tripura for selection of candidates for the under mentioned posts.

Item No. 01: 4 (four) posts of Under Secretary (UR-02, ST- 01, SC-01) in the Scale of Pay Rs 13,575-37,000/- Pay Band-4 with Grade Pay Rs. 5,400/or as revised from time to time.

Type of engagement: On Deputation Basis for a period of 2 years.

Educational Qualification:

Essential: i) Should have passed Master's Degree from any recognized University.

ii) Three years' Administrative/Teaching Experience in a Government Department/PSU/Autonomous Body/ Government Schools/ Government Aided Schools enjoying Grade Bay Rs.4,800/-P.M.

Item No. 02: 07 (seven) regular posts of Lower-Division Clerk cum Data Entry Operator (ST-05, SC-02) on fixed pay basis for five years in the Scale of Pay Rs. 5,700-24,000/-, Pay Band 2 with Grade Pay: Rs. 2,200/-(Group-C), or as revised from time to time.

Educational Qualification:

Essential: i) Should have passed Madhyamik or its equivalent examination from any recognized Board.

ii) Knowledge of Computer Typing.

Item No. 03: 4 (four) regular posts of Group-D (UR-02, ST- 02) on fixed pay basis for five years in the Scale of Pay Rs.4,840- 13,000/-, Pay Band-1 with Grade Pay Rs.1,400/- (Group-D) or as revised from time to time.

Educational Qualification:

Essential: (i) Class VIII passed, relaxable upto Class V passed for ST/SC/PH candidates. Candidates who have read beyond Class VIII but have not passed Madhyamik will also be eligible.

For prescribed Application form and other important information, the candidates are requested to please visit the TBSE website (www.tbse.in).

The filled in Applications along with Challan will be received on all working days during 20-11-2016 to 14-12-2016 from 11:00 am to 04:00 pm at the office of the Tripura Board of Secondary Education, Gorkhabasti, Agartala.

During submission of Application Form, the candidate need not enclose any self attested certificates, testimonials etc. along with the Application Form. Candidates qualifying in the written examination will be asked to submit all relevant certificates in due course failing which the candidature will be summarily rejected.

*-Sd
DR. S.K. PODDAR
SECRETARY"*

8. During the course of hearing, Mr. Datta, learned counsel for respondents no.2 and 3 has placed before this Court a copy of the common counter affidavit filed on behalf of respondents no.2 and 3(here-in-after referred to as the answering respondents) in response to the above bunch of writ petitions. At para (G) of the counter affidavit it is clearly stated that the matter of regularization of the petitioners was taken up by the answering respondents with the Director of Secondary Education and in that process, they have clearly stated in their respective official notings that *"the Petitioners were appointed against the vacant posts that were created and have completed 5 years of service. The Answering Respondents have further sent details to the Director of Secondary Education stating that, the Petitioners were appointed against the vacant posts and consequent concurrence of Finance Department regarding the appointment of the Petitioners is not available in the office of the Answering Respondents."*

9. In para (H) it has been clarified that the petitioners were appointed maintaining all relevant norms except the concurrence of Finance Department and have completed 5 years of service. In para (I) of the counter affidavit it is clearly stated that they approached the Director of Secondary Education for providing regular pay scale to the petitioners. The said file was dispatched from the Office of the TBSE to the Director of Secondary

Education vide No.F.2(98)-(I)/TBSE/REG/(GR-D)/2022/1193 dated 08.08.2023 and still, the file is lying with the Director of Secondary Education.

10. The submissions advanced by Mr. Datta, learned counsel for respondents no.2 and 3 and the statements made in their counter affidavit are also in line with the employment notification dated 24.11.2016 issued by TBSE.

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

12. In my opinion, the fact that the file for providing regular pay scale to the petitioners is lying with the Director of Secondary Education, cannot be a ground to delay their legitimate right to get the benefit of regular pay scale as mentioned in the employment notification dated 24.11.2016. It is settled proposition of law that apart from service rules, the service conditions mentioned in the employment notification shall govern the employment of the Government employees.

13. In the above bunch of writ petitions, the petitioners in response to the said employment notification dated 24.11.2016 had applied for their respective posts and they appeared in a properly constituted selection process and they were selected successfully for the posts. Being satisfied, the respondents no.2 and 3 i.e. TBSE had appointed them in terms of the employment notification dated 24.11.2016 initially on fixed pay basis for a period of 5(five) years. Since one of the conditions of this employment notification has been complied with there is no reason to deny second part of terms of the employment of such petitioners that after completion of 5(five) years on fixed pay basis they would be extended the benefit of regular pay scale.

14. That apart, the file lying with the Director of Secondary Education cannot be a ground to deny the legitimate pay scale to the petitioners. The respondents must expedite the process and the petitioners as employees who have been rendering service most sincerely and diligently must get their legitimate pay scale in terms of their service conditions that notified/prescribed in the employment notification dated 24.11.2016.

15. It is pertinent to mention that employment under an organization is a contract between the employer and the employees. Both the employer and the employees are bound by the terms and conditions embodied in the offer of appointment/appointment letter issued in favour of the employee. So, both the parties are under obligation to fulfill and perform their part of contract. State as a benevolent government should not flout its part of contract.

16. In view of the aforesaid discussions, I direct the respondents to extend the benefit of regular pay scale as mentioned in the employment notification dated 24.11.2016 to the petitioners within a period of 2(two) months from today.

17. With the aforesaid directions, the above bunch of writ petitions stands allowed and thus disposed of.

The counter affidavit placed before this Court has been kept on record for future reference, if any.

JUDGE



Snigdha

SAIKAT
KAR

Digitally signed
by SAIKAT KAR
Date: 2024.04.23
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