

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.777 of 2023

- 1. Juled Hossen (43 years)**
S/o-Taher Miah, R/o- Maharani, Udaipur,
District-Gomati Tripura, Pin-799120.
- 2. Sri Sudip Kar (50 years)**
S/o-Late Balai Chandra Kar,
R/o-Ushabazar, Chinaihani,
P.O.:Agartala Airport, P.S.: Airport,
District-West Tripura, Pin-799009.
- 3. Sri Tapas Kanti Rakshit (50 years)**
S/o-Late Sitangshu Sekhar Rakshit,
R/o-Joynagar, Dashamighat,
P.O.:Agartala, P.S.: West Agartala,
District-West District, Pin-799001.

....Petitioner(s)

Versus

- 1. The State of Tripura**, represented by the Secretary to the Govt. of Tripura, Department of Higher Education, Government of Tripura, Khejur Bagan, P.O.: Agartala, P.S.:NCC, District: West Tripura, Pin-799001.
- 2. The Commissioner & Secretary**, Department of Finance, Govt. of Tripura, New Secretariat Complex, Gorkha Basti, P.O.: Kunjaban , P.S.: NCC, District-West Tripura, Pin-799001.
- 3. The Directorate of Higher Education**, Government of Tripura, Estt. (N.G.) Section, Old Secretariat Complex, P.O.:Agartala, District-West Tripura.
- 4. The Principal**, Tripura Institute of Technology, Narsingarh, Airport Road, Singerbil, P.O.:Agartala, P.S.:Airport Police Station, District-West Tripura, Pin-799009.

....Respondent(s)

For the Petitioner(s)	:	Mrs. S. Deb (Gupta), Advocate
For the Respondent(s)	:	Mr. D. Sarma, Addl. GA

HON'BLE MR. JUSTICE ARINDAM LODH

Order

20/08/2024

By means of filing the present writ petition, the petitioners have prayed for the following reliefs:

- “i) Admit this petition of the petitioners;*
- ii) Call for records relevant to the subject matter from the custody of the respondents;*

iii) Issue Writ directing the respondents to redesignate the post of the petitioners as Technician which was brought under the purview of Tripura State Civil Services (Revised Pay, 15th Amendment) Rules, 2004 by re-fixing the scale of Rs.4200-8650/-;

iv) Issue Writ directing the respondents to extend the pay scale of Rs.4200/- to Rs.8650/- to the petitioners w.e.f. 18.06.2009 i.e. the date of joining of the petitioners with consequential benefits of Tripura State Civil Services (Revised Pay, 15th Amendment) Rules, 2004;

v) Issue Writ directing the respondents to give arrear to the petitioners as the respondents did not give benefits as per 15th Amendment of ROP Rules, 2004, since their joining;

vi) Pass such other or further order/orders and directing/directions as to your Lordship deem fit and proper having regard to the facts and circumstances of the case.”

The admitted case of the petitioners is that in response to an advertisement dated 25.04.2007, the petitioners applied for the posts of Junior Technician and accordingly they have been selected and appointed as Junior Technician in the year 2009 under the respondents. When they were appointed as Junior Technicians, there was no post of Junior Technician for the reason that the ROP Rules, 1999 were amended by Tripura State Civil Services (Revised Pay) (Fifteenth Amendment) Rules, 2004(here-in-after referred to as ROP Rules, 2004), when both the posts of Junior Technician and Senior Technician under the Education Department, Govt. of Tripura were amalgamated and re-designated as “Technician”. That means, with the introduction of ROP Rules, 2004, there was only one post, which is of “Technician” with the pay scale of Rs.4200/- to Rs.8650/-. The grievance of the petitioners is that in spite of the said pay scale, the respondents had issued advertisement to fill up the post of Junior Technician in the year 2007, when there was no post of Junior Technician at all. Later on, they have detected the said mistake in the advertisement but granted the petitioners unrevised pay

scale of the Junior Technician under the Education Department. As such, they have filed the instant writ petition in the year 2023 claiming granting of pay scale of Rs. 4200/- to Rs.8650/- w.e.f. from the date of their appointment.

I have heard Mrs. S. Deb (Gupta), learned counsel appearing for the petitioners. Also heard Mr. D. Sarma, learned Addl. GA appearing for the respondents-State.

Mrs. Deb (Gupta), learned counsel for the petitioners has submitted that the State-respondents have not at all taken care of the legitimate pay scale of the petitioners which they are entitled to with effect from the date of their appointment. Under ROP Rules, 2004, the pay scale of the petitioners was fixed at Rs.4200/- to Rs.8650/-. The State-respondents was also under the oblivion that the post of Junior Technician was actually abolished in the year 2004 and there was no existence of the post of Junior Technician under the Education Department. The posts of Junior and Senior Technicians were amalgamated to only one post, namely, “Technician” with the pay scale of Rs.4200/- to Rs.8650/-.

The pay scales of Junior and senior Technician as well as the “Technician” as per Tripura Gazette, Extraordinary Issue, November 17, 2004 A.D. are reproduced hereunder:

Department/ page no. & sl. No.	Name of Post	Prefix/ suffix to the post	Existing scale	Revised scale w.e.f. 1.1.1996	Name of post	Modified Revised scale of pay w.e.f. 1.1.1996	Remarks
Higher Education	Technician	Junior	1250-2890	4000-7890	Technician	4200-8650	
Page 47 Sl. 26			1300-3220	4200-8650			
		Senior	1700-3980	5500-10700			

So, according to learned counsel appearing for the petitioners when the posts of Junior Technician was abolished and the post of Technician was created with the modified revised pay scale of Rs.4200/- to Rs.8650/-, granting of the unrevised pay scale to the petitioners is illegal, arbitrary and discriminatory.

On the other hand, Mr. Sarma, learned Addl. GA has submitted that the petitioners had submitted representations and the issue agitated in the present writ petition are under active consideration of GA(P & T) Department, Government of Tripura. At para 13 of the counter affidavit it is averred that *“... it is suggested to modify the existing recruitment rules of Jr. Technician with due approval of the Finance Department followed by advise of the Law Department, thereafter with a view to update the pay structure for the post of Junior Technician as per the revise pay scale of the Finance Department and also to re-designate the post of Junior Technician to Technician, the Department has already initiated the instant, issue through the proposal for amendment of existing recruitment rules of Jr. Technician at an appropriate level wherein the pay scale as well as the designation has been kept as per the revised structures and the matter is still under process for finalization. However, the Department will implement the pay scale as per the guideline of the Finance Department as and when approved by the competent authority.”* Again at para 14 of the counter affidavit it is stated that *“the instant claim of the Petitioners is under process for finalization wherein the matter has been initiated at an appropriate level which is reiterated in the foregoing paragraphs.”* At para 15 it is stated that *“to implement the pay structures of the Petitioners aver 15th Amendment of ROP Rules, 2004, the Department has already processed the matter to amend the Recruitment Rules of Jr.*

Technician wherein the name of post along with the revised pay has been upgraded. Accordingly, the same will be notified as and when approved by the competent authority.”

It is further observed that the pay scale of the petitioners was wrongly fixed at the very initiation of their appointment. The Department should not overlook the fact that the Government of Tripura has decided to amalgamate the post of Junior Technician and Senior Technician and re-designate the same as “Technician” with an upgraded pay scale of Rs.4200/- to Rs.8650/-, which fact has also not been disputed by the State-respondents. However, according to the State-respondents, the relevant recruitment rules is required to be amended, which is under process. It is also stated and submitted by learned Addl. GA that as soon as it is modified, the upgraded pay scale would be granted to the petitioners.

The petitioners were appointed in the year 2009. It was the duty and responsibility of the Education Department under the respondents to issue advertisement in terms of the ROP Rules, 2004. However, the petitioners also were not found to be serious about the matter and they have filed the instant writ petition claiming the upgraded pay scale of Rs.4200/- to Rs.8650/- only in the year 2023. However, it is equally to be considered that the delay in agitating the grievance of the writ petitioners cannot oblivate the State-respondents to discharge their own responsibilities. The department must expedite the matter because non-granting of the legitimate pay scale to the petitioners is violative of Articles 14 and 16 of the Constitution of India.

It is further submitted by learned counsel for the petitioners that other employees in the same Education Department have already been provided with the upgraded pay scale without having amendment of the

relevant recruitment rules. If this be the case, then the respondents must take into consideration the above fact of granting upgranded pay scale to those employees without amending the recruitment rules in granting the upgraded pay scale to the petitioners.

For the reasons stated and discussed here-in-above, I direct the State-respondents to remove the anomalies and grant the regular pay scale to the petitioners in accordance with law within a period of 3(three) months from today.

It is made clear that the respondents shall fix the pay scale of the petitioners notionally with effect from the date of their appointment and they shall be paid the arrears of salary in terms of the upgraded pay scale of Rs.4200/- to Rs.8650/- for the three years immediately preceding the date of filing of the instant writ petition i.e. w.e.f. 12.12.2023.

The instant writ petition stands allowed and disposed in the above terms.

Pending application(s), if any, also stands disposed.

JUDGE

Snigdha

SAIKAT
KAR

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by SAIKAT KAR
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