

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 787/2023

Smt. Sabitri Rani Das & 3 ors.

----Petitioner(s)

Versus

The State of Tripura & 5 ors.

----Respondent(s)

For Petitioner(s)	:	Mr. AK Pal, Advocate
For Respondent(s)	:	Mr. BN Majumder, Sr. Advocate
		Mr. K. De, Addl. GA
		Mr. DJ Saha, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH
Order

23/07/2024

Heard Mr. AK Pal, learned counsel appearing for the petitioner. Also heard Mr. BN Majumder, learned senior counsel assisted by Mr. DJ Saha, learned counsel appearing for the respondents-TSECL and Mr. K. De, learned Additional GA appearing for the respondents-State.

By means of filing the instant writ petition, the original writ petitioner, Babul Chandra Das (being deceased has been substituted by his legal representatives), prayed for granting him the pay-scale of Lineman. The petitioner retired in the year 2019 from his service. In the year 2023, he claimed the pay-scale prescribed for the Lineman. It is the plea of the petitioner that though he was promoted to the post of Lineman, he was not provided the benefit of pay-scale prescribed for Lineman.

At the very outset, this court has requested learned counsel for the petitioner to show the office order whereby and whereunder the petitioner was promoted to the post of Lineman. Instead of showing any promotion order, learned counsel has relied upon an office order dated 16.05.2015 whereby the petitioner was shown to be designated as Lineman.

However, I have gone through the documents enclosed to the writ petition and I find a communication made by the petitioner addressed to the Deputy General Manager, Electrical Division No.-III, Bardowali, Agartala (Annexure 12 to the rejoinder to the substituted writ petition) wherein the petitioner designated himself as Junior Lineman. It is a communication on the subject of granting the benefit of ACP since the petitioner had completed 10 years of continuous service as Junior Lineman satisfactorily on 01.08.2014.

Mr. Majumder, learned senior counsel for the respondents-TSECL has produced the office records maintained in the office of the respondents-TSECL. The Note No. 19 is relevant to the issue involved in this writ petition. As such, Note No. 19 is reproduced here-in-below:

"Note-19

In reference to note no 14 the following points are reproduced for favorable consideration of the actual fact of the instance cases:-

1. On perusal service records of the petitioner Sri Babul Chandra Das had joined in Power Department as W/C Khalashi as on 11/02/1981 with pay Scale of (Rs. 200-3-224-4-252-5-272) (Annexure-A)
2. Subsequently he was treated as Helper as on 18/01/1989 with pay Scale of Rs.850-2130/- (Annexure-B)
3. Thereafter he availed the CAS-I w.e.f 01/01/1999 as per ROP 1999 with pay Scale Rs.2900-5660/-under FR-22(a) (i) which may be treated as 1st Financial up gradation. (Annexure-C)
4. He was promoted to the post of junior line man on 02/08/2004 vide letter no F6(36)-CEE/Estt/13,653-902 dated 20/07/2004 from the feeder post of Helper/Sr. Helper with Pay scale of Rs.3200- 6030/- which may be considered 2nd financial up gradation. (Annexure-D)
5. After completion of another 7 (seven) years of service in the same post i.e Junior Lineman he was allowed for ACP-II (Scale advance) on 02/08/2011. as per ROP 2009. Vide office order no 6(92)- TSECL/Estt-II/09/P-III/14589-93, Date 20-05-2015 of DGM (Corporate), which may be treated as 3rd financial benefit/ACP-III. Unfortunately in the said office order the designation of Sri Babul Chandra Das reflected as Line man in place of junior lineman due to over sight of typical mistake. But his pay scale was considered as junior lineman in the pay band of Rs.5310-24000/- with Grade pay Rs.1800/- PB-2. (Annexure-10)
6. Sri Babul Chandra Das, Junior Lineman has been released from service under superannuation. Vide office order no ESD- VI/3(55)/2019-20/321-29 Date 10-10-2019 of Senior Manager of concern Sub-Division. (Annexure-F)

From the narrated here in above it comes forth beyond shadow with crystal clear that the petitioner Sri Babul Chandra Das, Junior lineman has already been availed 3 scale financial benefit in his service tenure in due course of time as per Amended ROP time to time and his designation will be junior lineman. So claiming of entitlement for being Lineman with higher pay Scale in the form of ACP -III is completely baseless, unjustifiable, and cannot be entertained and maintainable".

The same plea has also been taken in the counter affidavit.

It is clear from Note No. 19 that the original writ petitioner, Babul Chandra Das, was wrongly designated as Lineman due to oversight or typographical mistake.

It is well established rule that to attract the extraordinary jurisdiction of this Court as enshrined under Article 226 of the Constitution of India, the petitioner is to make out a clear case before the court. All relevant documents are to be produced before the court. The main prayer of the petitioner is to grant him the pay-scale prescribed for Lineman. It is the obligation of the petitioner to place the order before the court under which he was promoted to the post of Lineman, which is absent in the present case.

On the other hand, the respondents-TSECL by placing the office record have sufficiently explained that it was due to oversight or typographical

mistake that the original writ petitioner Babul Chandra Das (now deceased) had been designated as Lineman in the office order dated 16.05.2015.

This explanation also finds support from the communication dated 19.03.2015 made by the original writ petitioner wherein he claimed ACP as Junior Lineman as he completed 10 years of satisfactory service on 01.08.2014.

In view of this clear position of facts and in absence of any office order showing the promotion of the petitioner to the post of Lineman, I do not find any merit in the present writ petition.

Accordingly, the instant writ petition stands dismissed. However, there shall be no order as to costs.

JUDGE

SAIKAT KAR Digitally signed by SAIKAT KAR
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