

**HIGH COURT OF TRIPURA**  
**\_A\_G\_A\_R\_T\_A\_L\_A\_**  
**WP(C) No.804 of 2023**

Sri Sajal Kar

.....Petitioner

**\_V\_E\_R\_S\_U\_S\_**

The State of Tripura and 5 Others

.....Respondents

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|                   |   |                                                            |
|-------------------|---|------------------------------------------------------------|
| For Petitioner(s) | : | Mr. Somik Deb, Sr. Advocate.<br>Mr. S. Majumder, Advocate. |
| For Respondent(s) | : | Mr. M. Debbarma, Addl. G.A.                                |

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**HON'BLE MR. JUSTICE T. AMARNATH GOUD**  
**\_O\_R\_D\_E\_R\_**

**23.02.2024**

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. S. Majumder, learned counsel appearing for the petitioner also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution of India for directing the respondents to forthwith step up the pay of the petitioner at par with Sri Kaushik Bhattacharya, along with the differential salary and allowances consequent upon such stepping up,. Grant the benefit of increment, with effect from 09.07.2021 along with arrears thereof, grant the benefit of earned leave medical leave, w.e.f. 01.07.2008 and further for directing them to count the regular service of the petitioner from 01.07.2008 for promotion to the next promotional post.

The petitioner has prayed for the following reliefs:

“i. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, for directing them, to transmit the records, lying with them, for rendering substantive and conscionable justice to the petitioner.

ii. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued for mandating/directing them, to forthwith step up the pay of the petitioner at par with Sri Kausik Bhattacharya, and pay off the differential salary & allowances, consequent upon such stepping up, grant the benefit of increment, with effect from 09.07.2021. along with arrears thereof, grant the benefit of earned leave, medical leave and other consequential service benefits, with effect from 01.07.2008, and further for mandating/directing them, to count the regular service of the petitioner from 01.07.2008, for promotion to the next promotional post.

iii. Call for the records appertaining to this petition.

- iv. After hearing the parties, be pleased to make the Rule absolute in terms of i. to ii. above.
- v. Costs of & incidental to this proceedings.”

The case of the petitioner is that the petitioner is holding the post of Lower Division Clerk, in the Department of Higher Education, Government of Tripura. Initially, the petitioner, alongwith others, had presented a writ petition, marked as WP(C) No.229 of 2015, before this Hon'ble High Court, inter alia praying for regularizing their services, and by a Judgment & Order dated 04.03.2016, the said writ petition was allowed. Assailing the said judgment & order dated 04.03.2016, the State respondents had preferred an appeal, thereby praying for setting aside the judgment & order dated 04.03.2016, but vide an order dated 09.07.2019, the said appeal was dismissed. Since, the petitioner was illegally denied the benefit of regularization, despite having knowledge & speed in typing, the petitioner was prevented from participating in the said typewriting test.

Subsequent to his regularization, by virtue of the orders of this Court, the petitioner participated in the typewriting test, and was successful in the first attempt. The Director of Higher Education, Government of Tripura, issued a Memorandum thereby allowing the service benefit of the employees, by way of notional fixation, in favour of a list of employees, the name of the petitioner being in Serial No.3, noting that the said employees shall get the service benefit by notional fixation from 01.07.2008 to 09.03.2020, thereby directing the respective Heads of Offices to process the matter, for extending notional fixation to the employees.

Thereafter, on 31.07.2023, the petitioner submitted a letter to the Director, Directorate of Higher Education, Government of Tripura, inter alia praying for promotion, along with earn leave, medical leave, salary structure to be extended, with effect from 01.07.2008. Since, the Letter dated 31.07.2023 did not evoke any response, the petitioner submitted a Reminder Letter to the Director, Directorate of Higher Education, Government of Tripura dated 25.08.2023 to take steps in this regard. The petitioner is similarly situated with that of Sri Kausik Bhattacharya, and that both of them were parties to the common writ petition, instituted by them [WP(C) No.229 of 2015], and they were regularized by a common Memorandum dated 31.08.2021, but the petitioner is drawing a lesser monthly salary of Rs. [45,959 - 34,300] Rs.11,659/-.

Hence, the present petition has been preferred by the petitioner before this Court for redress.

In view of above and having hearing the learned counsel appearing for the parties, this Court is of the opinion that on earlier round of litigation the petitioner along with others filed a writ petition [WP(C) No.229 of 2015] and subsequently, the same was order in favour of the petitioners in which, the petitioner was at Sl. No.3.

Aggrieved by the same, the state respondents have preferred an appeal being numbered as WA. No.115 of 2016 and initially an interim stay was granted, subsequently at the stage of final hearing the matter was decided finally and the Hon'ble Division Bench was pleased to vacate the order and dismissed the writ appeal indicating that there is no reason for interference with the order passed by the learned Single Judge and accordingly, the same was conformed.

Since the benefits were not extended on par with the other petitioners [WP(C) No.229 of 2015] and there is parity between drawings of amount, the petitioner approached before the respondents and made a request on 31<sup>st</sup> July, 2023 and also asked for his service record on 01.08.2023 and further on 25.08.2023 he made a reminder to the respondents. Since no response has been made from the respondents, the petitioner is before this Court by way of filing this present writ petition.

Accordingly, without expressing any opinion on merits, the present writ petition stands disposed of directing the respondents to consider the case of the petitioner in accordance with law and also on par with the other writ petitioners which are already indicated above. The said decision be taken within a period of three months from the date of receipt of the copy of this order.

In view of above, the present petition stands disposed of. As a sequel, miscellaneous application(s), pending if any, shall stands closed.

**T. AMARNATH GOUD, J**

*A. Ghosh*

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