

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WA. No.212 of 2022

For Appellant(s) : Mr. B. Banerjee, Advocate.
Ms. R. Majumder, Advocate.
For Respondent(s) : Mr. Kohinoor N. Bhattacharjee, G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

_O_R_D_E_R_

05.03.2024

Heard Mr. B. Banerjee, learned counsel appearing for the appellant also heard Mr. Kohinoor N. Bhattacharjee, learned G.A. appearing for the respondents.

The appellant has prayed for the following reliefs:

- "i. Admit this appeal.
 - ii. Call for the records of the W.P. (C) No.410 of 2021 and other relevant records.
 - iii. Issue notice.
- AND
- iv. After hearing the parties interfered the impugned judgment and order dated 28.11.2022 as passed in W.P. (C) No.410 of 2021 by issuing writ in the nature of mandamus directing the respondents to regularize the petitioner as driver under the memorandum dated 21.01.2009 read with memorandum dated 04.09.2012 and 03.01.2014 within a stipulated period fixed by this Hon'ble Court with all financial benefits to the appellant from the next date when he had completed ten years of service in the same grade where he had been working as driver (DRW)."

The facts in brief are that the petitioner was appointed as driver (DRW) on 14.02.2005 under respondent No.6. The respondent No.2 issued memorandum on 21.01.2009, 04.09.2012 and 03.01.2014 regarding regularization of DRW/Casual etc. workers on completion of ten years of service. The respondent No.6 issued several request letters to the appropriate authority to regularize the petitioner. The petitioner made representation for regularization of his serviced. Till today, the service of the petitioner has not been regularized. The petitioner filed a writ petition before this Court in the year 2021 and the same was dismissed by order dated 28.11.2022.

In view of above and having heard the learned counsel appearing for the parties, without expressing any opinion on merits, this Court is of the opinion that the present writ appeal is filed before passing of any impugned order and the same is premature/not maintainable. However, on the strength of the pleadings and the counter affidavit filed by the respondents deciding the writ petition in absence

of any impugned order is not proper. These cannot be challenged under Article-226 of the Constitution of India and seek mandamus without an impugned order and without challenging the impugned action of the respondents.

Hence, this Court is of the opinion that ends of justice would be met if an opportunity of passing a speaking order is given to the respondent. Accordingly, the order of the learned Single stands set aside affording an opportunity to the respondent for fresh adjudication and to pass a speaking order on the representation would be filed by the petitioner along with relevant documents or any such information, if so advised. The respondents are directed to consider the same in accordance with law within a period of four months from the date of receipt of such representation.

Accordingly, the present writ appeal stands disposed of. As a sequel, miscellaneous application, pending if any, shall stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

A. Ghosh

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