

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.52 of 2022

Mani Kanchan Ghosh,

Son of late Monoranjan Ghosh, resident of Kalagachia, P.O
Sidhai, Sub Division Mohanpur, West Tripura.

..... **Petitioner(s)**

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of
School Education, Government of Tripura), New Secretariat
Building, New Capital Complex, Kunjaban, P.S. New Capital
Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura,
Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Director,**
O/O the Directorate of Elementary Education, Govt. of
Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin
799003.
- 4. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital
Complex, Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN 799010.
- 5. The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government
of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

सत्यमेव जयते

..... **Respondent(s)**

WP(C) No.53 of 2022

Uttam Kumar Goswami,

Son of Kiran Chandra Goswami, resident of Village + P.O
Amtilla, Kadamtala, Dharmanagar, North Tripura.

.....**Petitioner(s)**

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of
School Education, Government of Tripura), New Secretariat
Building, New Capital Complex, Kunjaban, P.S. New Capital
Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura,
Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

..... Respondent(s)

WP(C) No.54 of 2022

Ganesh Debbarma,

Son of Arun Debbarma, resident of Avanga, Kamalpur, P.O Avanga, District Dhalai, Tripura.

.....Petitioner(s)

- V e r s u s -

1. **The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
2. **The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.55 of 2022

Sanat Debbarma,

Son of Lt. Suku Chandra Debbarma, resident of Kala Shati Para, Jirania, P.O Birendra Nagar, District West Tripura, Tripura.

.....Petitioner(s)

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 4. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 5. The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.56 of 2022

Suken Sarkar,

Son of Lt. Kamal Sarkar, resident of Gainama, Longtharai Valley, P.O. Chailengta, District Dhalai, Tripura.

सत्यमेव जयते

..... Petitioner(s)

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 4. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

5. The State Project Director,

Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.57 of 2022

Sushil Chandra Das,

Son of late Sashanka Kumar Das, resident of Gouri Sankar Pur, P.O Dasda Bazar, P.S Kanchanpur, Dist. North Tripura.

..... Petitioner(s)

- V e r s u s -

1. The State of Tripura,

(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

2. The Director,

O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

3. The Director,

O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

4. The Secretary, Department of Finance,

Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

5. The State Project Director,

Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.58 of 2022

Amrit Lal Das,

Son of late Harendra Das, resident of Ram Bhakta Para, P.O Champak Nagar, Sub Division Jirania, West Tripura.

..... Petitioner(s)

- V e r s u s -

1. The State of Tripura,

(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

2. The Director,

O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.59 of 2022

Sujit Debnath,

Son of Subodh Debnath, resident of Netaji Nagar, Teliamura, P.O Teliamura, District Khowai, Tripura.

..... Petitioner(s)

- V e r s u s -

1. **The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
2. **The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.60 of 2022

Rita Nath,

Daughter of late Barindra Nath, resident of Laxmipur, Kanchanpur, P.O Dasda Bazar, District North Tripura, Tripura.

..... Petitioner(s)

- V e r s u s -

1. **The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
2. **The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.61 of 2022

Amulya Debbarma,

Son of late Laxman Debbarma, resident of Gurubhakta Para, Udaipur, P.O Garjee, District Gomati, Tripura, Pin 799125.

..... Petitioner(s)

- V e r s u s -

1. **The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
2. **The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.62 of 2022

Nandan Chakraborty,

Son of late Nani Gopal Chakraborty, resident of Nidaya, P.O Nidaya, District Sepahijala, Tripura.

..... Petitioner(s)

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 4. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 5. The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.63 of 2022

Dulal Majumder,

Son of late Niranjan Majumder, resident of Sukanta Colony, P.O Nutan Bazar, Amarpur, District Gomati Tripura.

..... Petitioner(s)

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.64 of 2022

Lucky Das,

Daughter of Lt. Sudhangshu Das, resident of Kanchanpur, P.O. Kanchanpur, District North Tripura, Tripura.

..... Petitioner(s)

- V e r s u s -

1. **The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
2. **The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.65 of 2022

Uggajoy Mog,

Son of Late Monsiong Mog, resident of Kachimcherra Village Council, P.O Kulai Bazar, District Dhalai, Tripura.

..... Petitioner(s)

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 4. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 5. The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....**Respondent(s)**

WP(C) No.99 of 2022

Smt. Tanuja Chakma,

Wife of Sri Mridul Chakma, resident of Vill Srirampur, P.O & P.S Kanchanpur, Sub-Division Kanchanpur, North Tripura, PIN 799270.

..... **Petitioner(s)**

- Versus -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 4. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

5. The State Project Director,

Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.451 of 2022

Rajib Banik,

Son of Sri Ranjit Banik, resident of Khowai, P.O. Khowai Court, Sub-Division Khowai, Khowai Tripura.

..... Petitioner(s)

- V e r s u s -

1. The State of Tripura,

(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

2. The Director,

O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

3. The Director,

O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.

4. The Secretary, Department of Finance,

Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

5. The State Project Director,

Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.955 of 2022

1. Pranjib Sarkar,

Son of Pratul Sarkar, resident of Village West Charakbai, P.O. Charakbai, Sub-Division Santirbazar, District South Tripura, PIN 799142.

2. Ritan Hazaree,

Son of Rakhal Hazaree, Village & P.O Karaicherra, Sub Division Kumarghat, District Unakoti Tripura, PIN 799263.

..... Petitioner(s)

- V e r s u s -

1. The State of Tripura,

(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat

Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.

2. **The Director,**
O/O the Directorate of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
4. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
5. **The State Project Director, Samagra Shiksha Abhiyan,**
Office of the School Education Department, Govt. of Tripura, Shiksha Bhavan, Office Lane, Agartala, West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.956 of 2022

Sanjib Das,

Son of Sri Haripada Das, resident of Manughat, P.O. Manu, Sub Division Longtharai Valley, Dhalai, Tripura.

..... Petitioner(s)

- V e r s u s -

1. **The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
2. **The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
3. **The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
4. **The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

WP(C) No.957 of 2022

Satan Deb,

Son of late Rakesh Deb, resident of East Masli, P.O Masli Bazar, P.S. Manu, Sub Division Longtharai Valley, Dhalai, Tripura.

..... Petitioner(s)

- V e r s u s -

- 1. The State of Tripura,**
(To be represented by the Principal Secretary, Department of School Education, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 2. The Director,**
O/O the Directorate of Elementary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, Agartala, Pin 799003.
- 3. The Secretary, Department of Finance,**
Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S. New Capital Complex, Agartala, West Tripura, PIN 799010.
- 4. The State Project Director,**
Samagra Siksha Abhiyan, Tripura Rajya Mission, Government of Tripura, P.O. Agartala, District West Tripura, PIN 799001.

.....Respondent(s)

For the Petitioner(s) :	Mr. P. Roy Barman, Senior Advocate. Mr. S. Bhattacharjee, Advocate.
For the Respondent(s) :	Mr. S.M. Chakraborty, Advocate General. Mr. P. Gautam, Senior G.A. Mr. D.C. Saha, Advocate. Mrs. P. Chakraborty, Advocate.
Date of hearing :	4th September, 2025.
Date of delivery of Judgment & order :	5th November, 2025.

Whether fit for reporting:	<table border="1"><tr><td>YES</td><td>NO</td></tr><tr><td>✓</td><td></td></tr></table>	YES	NO	✓	
	YES	NO			
✓					

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

The identical nature of facts and common questions of law are being involved, all the writ petitions were heard together and are being disposed of by this common judgment.

[2] All the petitioners were initially engaged as contract teachers under Sarva Shiksha Abhiyan (for short- SSA) from the year 2004 till 16.11.2012, either as Upper Primary or Post Graduate teachers. All of them thereafter qualified the TET examination and being offered with the offer of appointment either as under graduate or as graduate or post graduate teachers joined in their new employment on different dates as indicated in the below noted tabular chart:

Sl. No.	Name of the petitioner(s) and case number	Date of joining as SSA teacher	Date of joining as GT/PGT/UGT	Remarks, if any
1.	Mani Kanchan Ghosh [WP(C) 52 of 2022]	10.06.2004 Contract Teacher (Upper Primary)	22.11.2017 (GT)	
2.	Uttam Kumar Goswami [WP(C) 53 of 2022]	10.06.2004 Contract Teacher (Upper Primary)	01.09.2017 (GT)	
3.	Ganesh Debbarma [WP(C) 54 of 200]	09.07.2011 Contract Teacher (Upper Primary)	18.03.2020 (GT)	
4.	Sanat Debbarma [WP(C) 55 of 2022]	01.01.2009 Contract Teacher (Upper Primary)	18.03.2020 (GT)	
5.	Suken Sarkar [WP(C) 56 of 2022]	02.02.2010 Contract Teacher (Upper Primary)	21.12.2017 (GT)	
6.	Sushil Chandra Das [WP(C) 57 of 2022]	01.03.2004 Contract Teacher (Upper Primary)	19.03.2020 (GT)	
7.	Amrit Lal Das [WP(C) 58 of 2022]	01.03.2004 Contract Teacher (Upper Primary)	18.11.2017 (PGT)	
8.	Sujit Debnath [WP(C) 59 of 2022]	01.03.2004 Contract Teacher (Upper Primary)	30.12.2017 (GT)	
9.	Rita Nath [WP(C) 60 of 2022]	10.09.2010 Contract Teacher (Upper Primary)	06.01.2021 (GT)	
10.	Amulya Debbarma [WP(C) 61 of 2022]	01.01.2009 Contract Teacher (Upper Primary)	18.03.2020 (GT)	
11.	Nandan Chakraborty [WP(C) 62 of 2022]	01.03.2004 Contract Teacher (Upper Primary)	29.12.2017 (UGT)	
12.	Dulal Majumder [WP(C) 63 of 2022]	05.02.2010 Contract Teacher (Upper Primary)	20.03.2020 (GT)	
13.	Lucky Das [WP(C) 64 of 2022]	27.01.2010 Contract Teacher (Upper Primary)	17.11.2017 (GT)	
14.	Uggajoy Mog [WP(C) 65 of 2022]	01.02.2010 Contract Teacher	18.03.2020 (GT)	

		(Upper Primary)		
15.	Tanuja Chakma [WP(C) 99 of 2022]	27.01.2010 Contract Teacher (Upper Primary)	18.03.2020 (GT)	
16.	Rajib Banik [WP(C) 451 of 2022]	16.04.2008 Contract Teacher (Upper Primary)	03.11.2018 (GT)	
17.	Pranjib Sarkar and Ritan Hazaree [WP(C) 955 of 2022]	Pranjib Sarkar- 25.01.2011 (PGT, contract basis, RMSA) Ritan Hazaree- 16.11.2012 (PGT, contract basis, RMSA)	28.06.2021 (GT)	Both the petitioners joined as GT on 28.06.2021
18.	Sanjib Das [WP(C) 956 of 2022]	01.02.2010 Contract Teacher (Upper Primary)	27.12.2017 (GT)	
19.	Satan Deb [WP(C) 957 of 2022]	02.02.2010 Contract Teacher (Upper Primary)	27.12.2017 (UGT)	

[3] For convenience of reference, case No.WP(C) 52 of 2022 is treated as the lead case. The offer of appointment of the petitioner of the lead case indicates that such offer was issued for a temporary post of graduate teacher on fixed pay basis @ Rs.17,925/- per month being 75% of the basic pay (Level-9 of Tripura State Pay Matrix, 2017). It is the case of the petitioners that they were given offer of appointment against the sanctioned post. In this regard, one memorandum dated 22.12.2017 (Annexure 7 of the lead case) is relied on which shows that said memorandum was issued by the Directorate of Secondary Education, Government of Tripura noting that 456 number of persons were given offer of appointment against the posts of graduate teacher on fixed pay basis with a fixed salary of 75% of their basic pay of a graduate teacher, for a period of one year and they were accommodated against 1462 posts of graduate teachers

created vide Education (School) Department, Tripura under Memo No.F.8(1-33)-SE/E/PLAN/2009(1) dated 09.08.2010.

[4] Earlier, one Sajal Deb and another Manoj Kr. Debbarma filed two separate writ petitions bearing No. **WP(C) 329 of 2015 [Shri Sajal Deb vs. the State of Tripura and others]** and **WP(C) No.212 of 2016 [Sri Manoj Kr. Debbarma vs. the State of Tripura and others]**. They were engaged as SSA teachers on fixed remuneration on contract basis in SSA. Seeking regular pay scale and their regularization in the service, they filed those two writ petitions. Both the cases were heard by a Division Bench of this Court and were disposed of by common judgment dated 23.02.2021, inter alia, in the following terms:

"53. We are, therefore, of the view that the petitioners must receive the remuneration in regular scale of pay assigned to then primary/upper primary Government teachers. The State Government also has a policy of initial appointment of a teacher on fixed pay basis for a period of 5 years. The same rule can be applied in the present case also. In case of all the petitioners thus from the date of the petitions or upon completion of 5 years of service whichever is later, they shall be placed in regular corresponding scales of pay for the Government teachers. However, this pay fixation would be for a notional purpose from the appropriate date till the date of this judgment, of course with notional release of increments as per the rules. Actual difference in salary would be paid effective from the date of this judgment.

54. The petitioners would have a right to be regularised after 10 years of continuous and uninterrupted engagement from initial appointment. It would be up to the Government to consider them for regularisation either in existing vacant posts of Government teachers or to sanction new posts as SSA teachers by creating such cadre if so advised. It would be open for the Government to frame a scheme providing for further terms and conditions on which such regularisation shall be done. However, any such scheme shall contain a clause that the service upon completion of 5 years from initial engagement or the date of filing the petition whichever is later, (when as per this judgment

the petitioners would notionally start receiving pay in regular scales) till date of regularisation, the services rendered by the petitioners shall count towards their pensionary benefits.

55. We are conscious of the legal issues concerning regular teachers in the Government schools which is a fall out of the Division Bench judgment of this Court in case of *Tanmoy Nath and others vrs. State of Tripura and others* reported in (2014) 2 TLR 731, where as per further orders passed by the Supreme Court, all those teachers who were terminated on account of the judgment of the High Court, would have a right to compete for fresh selections with age relaxation granted to them up to 31.03.2023. We have, therefore, left for the Government to regularize these petitioners either against the existing posts or on new posts which may be sanctioned.

56. These directions shall be carried out within a period of six months from today.

57. As noted in WP(C) No.329 of 2015 petitioners espouse the cause of the class of teachers through the association. In any case, the nature of disputes and our consideration are for the entire cadre. This judgment, therefore, shall act as a judgment in rem and will apply to all similarly situated SSA teachers without any of them having to approach the Court separately."

At Para 57 of the said judgment it was also clarified that said judgment would act as a judgment in rem and would apply to all similarly situated SSA teachers without any of them having approached the Court separately.

[5] Now, it is the claim of the petitioners that as per the judgment passed by this Court in above said **Sajal Deb's case**, they were entitled to get regular pay scale on completion of 5 (five) years of their services as SSA teachers with notional fixation till the date of the said judgment i.e. upto 23.02.2021 and thereafter they would be entitled to get actual financial benefit. In the present batch of writ petitions, two petitioners i.e. petitioners of WP(C) No.955 of 2022 only joined as graduate teacher on 28.06.2021 i.e.

after pronouncement of judgment of **Sajal Deb's case** and all other petitioners joined in their subsequent service before said judgment was passed.

[6] Now, the common grievances of all the petitioner are that after joining the regular service on their subsequent appointment, they are again placed on the fixed pay regime though all of them appeared in the TET examination after taking permission from their previous employer and on being offered with the subsequent job, they submitted their technical resignation in their previous job and only on acceptance of the same, they joined the subsequent employment. In this premise, now they have filed the present writ petitions for a direction to the respondents to give them the benefit of regular pay scale on completion of their 5(five) years of service as SSA teacher and also regular pay scale in their new assignment.

[7] According to the respondents, as per their affidavit in opposition submitted in the lead case, the judgment of **Sajal Deb's case** was applicable and specifically was limited to only those contractual teachers who were under the roll of SSA and therefore, same cannot be applied in case of the present petitioners who are no longer in the existing contractual service as SSA teacher. It is also stated by them that in compliance of the judgment of **Sajal Deb's case**, the Director of Elementary Education vide Memorandum dated 27.04.2022 (Annexure 13) already regularized 39 (thirty nine) T-TET II qualified SSA upper-primary contract

teachers as graduate teachers at elementary level after notifying the scheme of regularization dated 30.09.2021 and the SSA teachers who already completed 5(five) years of service under SSA, were also granted regular pay scale with notional fixation in terms of said judgment.

[8] Mr. P. Roy Barman, learned senior counsel also submits that as per judgment of **Sajal Deb's case**, which already reached finality being not challenged by the State, after completion of their 5(five) years of service as SSA teachers, the petitioners became entitled to get regular pay scale and just for migration to another Department, their right accrued under **Sajal Deb's case** cannot be taken away by the respondents and they all are entitled to get benefit of past service as they applied for the post under subsequent appointment after taking necessary permission from their previous employer and also joined in the subsequent appointment after submitting required technical resignation and moreover, all the petitioners after completion of their 5(five) years of service in SSA, joined in their new posts. Therefore, according to Mr. Roy Barman, learned senior counsel, the petitioners cannot be treated as fixed pay employee again by taking away their right to regular pay scale already accrued as SSA teachers.

[9] Mr. S.M. Chakraborty, learned Advocate General, on the other hand, submits that the petitioners are selected by Teachers' Recruitment Board, Tripura (for short TRBT) and they are now employee of the State Government and not employed further under

any scheme like SSA and therefore, the benefits accrued under **Sajal Deb's case** cannot be applied in their cases, for, they are no longer in service under any such scheme. Learned Advocate General further submits that after the new appointments of the petitioners, there are now sea changes in between the two employments and that prior to the pronouncement of judgment of **Sajal Deb's case** on 23.02.2021, all the petitioners already joined their new posts. Learned Advocate General also contends that said judgment of **Sajal Deb** was to be implemented only through a scheme framed by the State Government and when the scheme was framed by the State Government, all the petitioners already joined their subsequent employment and there was no direction in **Sajal Deb's case** that such benefits should have to be extended to other persons who had already left their employment under SSA.

[10] Learned Advocate General also argues that past service under Rule 26(2) of CCS (Pension) Rules, 1972 can only be counted when the pension Rules are applicable in both the jobs, and not otherwise. The last point as raised by learned Advocate General is that all the petitioners consciously accepted the terms and conditions of their subsequent appointments and therefore, they cannot resile from it now. Learned Advocate General also relies on a decision of the Hon'ble Supreme Court passed in the case of **Director General, Doordarshan Prasar Bharti Corporation of India and another vs. Magi H Desai, 2023 Legal Eagle 315**.

[11] This Court has given due consideration to the submissions of both sides and the materials placed in the record.

[12] In WP(C) No.451 of 2022, by an additional affidavit, the petitioner of said case has placed on record one memorandum dated 17.12.2024 issued by the Finance Department whereby the Finance Department has issued the guidelines for providing the benefit of regular pay scale to the employees recruited on fixed pay basis in different posts in different Departments by keeping regular pay scale posts in abeyance and who have continued to serve the State for 5(five) years on fixed pay in the same post without any break in service, on fulfilment of the following conditions:

- i) Employees who have been recruited in all the posts against the fixed pay posts created on fixed pay basis by keeping abeyance the regular scale posts.**
- ii) Employees should have obtained 'No Objection Certificate' from concerned department before appearing for the Selection Test for all the subsequent post(s) after first job.**
- iii) Employees who have joined the present posts without any break in service between two subsequent posts.**

[13] This memorandum has been issued in modification of earlier memorandum No.F.10(2)-FIN(G)/05/Part-I dated 16.10.2007, by taking a policy decision for considering the benefit of regular pay scale to the employees who have served the State Government for cumulative period of 5(five) years against fixed pay posts created on fixed pay basis keeping regular pay scale post in abeyance. Therefore, said memorandum cannot strictly be applied in the cases in hand. However, it is also submitted from the

side of the petitioners that despite the fact that maximum numbers of petitioners have already completed 5(five) years of service in their new employment, they have not yet been provided the regular pay scale.

[14] In all these writ petitions, the issue involved as per pleadings of the petitioners is whether the benefit of past service as rendered by the petitioners in SSA can be counted for providing regular pay scale to the petitioners in their subsequent service. It is fact that the decision of **Sajal Deb's case** remained unchallenged by the State and therefore, said decision is binding on them. At Para 53 of the said judgment as quoted earlier, it was categorically held that all the teachers under SSA were entitled to regular pay scale on completion of their 5(five) years of service in SSA and only restriction regarding providing of such pay scale was that actual financial benefit would be extended only from the date of said judgment i.e. from 23.02.2021 and notional fixation should be done for the period computing from the date when each of the SSA teacher have completed 5(five) years of service. Therefore, there is no dispute that in the matter of providing the benefit of regular pay scale, such benefit was given with retrospective effect.

[15] The chart containing individual particulars of each of the petitioners show that before they have joined to the subsequent service, all of them had already completed 5(five) years of their service in SSA and therefore, before joining to the new posts, already they accrued the right of getting regular pay scale in SSA,

may be through notional fixation. Thus, the right which is already accrued to the petitioners by virtue of said judgment of **Sajal Deb's case** cannot be taken away now just because they themselves have migrated to another department joining to the regular sanctioned posts treating the same to be a better employment. In the light of the direction as contained in Para 53 of **Sajal Deb's case**, the respondents were/are under obligation to go for notional fixation of the pay of the present petitioners in SSA on completion of their 5(five) years of service there and the consequence of such notional fixation would lead to irresistible conclusion that when the petitioners joined to their subsequent service, already they were enjoying regular pay scale as SSA teachers (though notionally) and thereafter they were again put into fixed pay regime in their subsequent employment.

[16] Almost similar issue is already dealt with by this Court by a Coordinate Bench in case of **Tarendra Reang and others vs. The State of Tripura and others [WP(C) No.234 of 2020]** decided on 06.01.2021 along with four other writ petitions. In all those cases, the petitioners were though having common relief of addition of past service but on factual contexts there were certain distinctions which are noted hereunder:

i) *In first case [WP(C) no.234 of 2020], out of three petitioners, one petitioner was appointed as wireless operator and on completion of training he was granted regular scale. Two other petitioners initially joined as lower division clerk and panchayat secretary on fixed pay basis and after completion of 05 years of*

service, they were granted regular pay scale. After taking no objection from their respective authorities and giving technical resignations, they thereafter joined as government teacher and they were again placed on fixed pay salary.

ii) In one case i.e. WP(C) no.236 of 2020, the petitioner was appointed as an Inspector on regular pay scale and when thereafter she joined as Graduate Teacher after taking no objection from her employer, she was placed in fixed salary category.

iii) In WP(C) 558 of 2020, the petitioner was initially appointed as Assistant Teacher (Science) on fixed pay basis but after 05 years of service, regular pay scale was not provided and thereafter on his subsequent appointment as Under Graduate Teacher, he prayed for protection of his past service.

iv) In another case i.e. WP(C) No.450 of 2020, all the petitioners worked earlier as Assistant Teacher (Science) on fixed pay basis but on completion of 05 years they were not provided with regular pay scale. Subsequently, when they joined the post of Graduate Teachers taking 'no objection' from their department and giving technical resignation, they were again placed on fixed pay rule.

(v) In last case i.e. WP(C) No.780 of 2020, the petitioner worked as Assistant Teacher (Science) on fixed pay basis but on completion he was not provided regular pay scale. Thereafter obtaining 'no objection' from his department and giving technical resignation, he joined as post graduate teacher where he was again placed under fixed pay.

[17] The High Court in the above said cases, taking into consideration the ratio laid down by this Court in **Snehangshu Das and others vs. State of Tripura and others in WP(C) No.89 of 2020** and other different Central Government instructions and also

the provision of Rule 26 of the CCS (Pension) Rules finally held as follows:

“[15] From the above discussion it can be seen that interdepartmental migration of the employees is not discouraged, be it the Government of India or the State Government. Specifically Rule 26(2) of CCS(Pension) Rules protects the past service of an employee of the Government even after his technical resignation and joining new post. Though this is limited for the purpose of pensionary benefits of an employee, it is impossible to protect the pension without protecting his pay.”

[16] The incongruity of the situation that may be brought about if the Government’s stand is accepted would be that full time Government servants who have after rendering service for 5 years on fixed salary basis are brought over to regular scale, once again would be placed at the bottom of salary structure and would be asked to render service for 5 years on fixed salary which is a meagre 65 or 75% of entry scale of the equivalent post without benefit of any other allowances. By protecting their past service for the purpose of pay and allowances even the Government purpose of cost cutting would not be frustrated because these employees would be vacating their regular posts which when filled up the Government will be offered on fixed salary basis. Thus this interdepartmental migration would only bring about change of the head from which the petitioners would be drawing their salaries and there would be no additional outflow from the Government exchequer.

[17] The objection of the Government that the petitioners accepted their appointments with full knowledge and, therefore, they are stopped from raising their grievances is possible of the summery disposal. Neither the recruitment rules nor the advertisement nor the offer of appointment can override the service rules, regulations and statutory provisions. Even if the advertisement provided that an appointee shall be placed under fixed pay for a period of 5 years, never clarified that even if the rules and regulations so provide, the past service of a job aspirant who has been a Government servant already for over 5 years would be wiped out, nor could it have been so prescribed.

[18] Under the circumstances, all the petitions are allowed. In cases where the petitioners were already enjoying pay fixations in regular scales, their entire past service shall be protected for the purpose of pay and allowances including leave encashment and post-retiral benefits as per their appointments in new posts. Where the petitioners have not been granted regular pay scales even after completion of 5 years of service, they would be first brought over to regular pay scale from due dates. Upon their fresh engagements as Teachers, their past

service similarly shall be protected. It is, however, clarified that none of the petitioners would have any claim of seniority in their new engagements because in the new organization they cannot carry the seniority of the past service so as to jump over the other existing employees in the cadre.

Entire exercises of pay fixation and payment of arrears shall be completed within 6(six) months from today. Petition disposed of accordingly. Pending application(s), if any, also stands disposed of."

The benefit of past services in these cases was thus provided to all the petitioners in this way.

[18] At Para 06 of above said **Tarendra Reang's case**, it was categorically observed that the formula of engaging employees in Group C and Group D posts for initial period of 5(five) years on fixed pay salary was a device adopted by the State Government, principally by way of cost cutting exercise and from time to time resolutions were passed under which, by keeping the regular post in abeyance for a period of 5(five) years, temporary arrangements were made on fixed pay basis, preceded by regular selection process and against regular post. These resolutions provided that upon completion of continuous 5(five) years of service, the persons who were engaged on fixed pay basis would be brought to regular scales of pay and benefit of past service was also recognized for the purpose of pension and other benefits. The Bench further held that the formula of engaging Group C and Group D staff on fixed salary basis was merely a device to enable the Government to reduce its salary burden for a temporary period. The nature of grievances both in **Tarendra Reang's case** and the present cases are similar except with the distinction in the factual context that in the present

cases in hand, all the petitioners were engaged on contract basis in SSA and not on regular basis but they all were put into regular pay scale by virtue of judicial pronouncement.

[19] In ***Sajal Deb's case***, the State also took one of the defence that SSA teachers were engaged under a scheme framed by the Central Government and not against any sanctioned post. While dealing with this point the Court observed that the SSA teachers were entrusted with the same educational responsibilities, teaching in the same school to the same students for the same amount of time like regular Government teachers and they also held the same qualification and finally it was decided that they were also entitled to receive the remuneration in regular scale of pay assigned to the primary/upper primary teachers and that they had also a right to be regularized after ten years of continuous and uninterrupted engagement from initial appointment through a scheme to be framed by the State.

[20] In view of above said factual background and some sort of distinctions with the facts of ***Tarendra Reang's case***, the matter is now required to be viewed from a different angel. When a person becomes entitled to a regular pay scale after serving on fixed pay for continuous 05 years (though on contract basis), just because he enters in a subsequent job under the same Government, will it be justified for the State to put him again within the region of fixed pay or consolidate pay, only because he has accepted the offer of appointment containing such term of payment

of salary on fixed pay basis, especially when his appointment is against a sanctioned post and he has been appointed through due selection process. Already the State has kept the SSA teachers like the petitioners under fixed pay term for initial five years. Putting these persons again on fixed pay regime would certainly be unreasonable, harsh and exploitative and therefore arbitrary in nature, more particularly when they have been appointed against sanctioned posts through due selection process and they also possess requisite qualifications and are discharging similar duties like other regular employees.

[21] In ***State of Punjab v. Jagjit Singh, (2017) 1 SCC 148***, Hon'ble Supreme Court observes that it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situated constitutes an act of exploitative enslavement, emerging out of a

domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

[22] Even, Rule 26 of CCS (Pension) Rules, 1972 also protects the past service of a Govt. employee on resignation in the following manner when such resignation is merely a technical resignation to join a new appointment-

26. Forfeiture of service on resignation-

(1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(3) Interruption in service in a case falling under sub-rule (2) due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.

(4) The appointing authority may permit a person to withdraw his resignation in the public interest on the following conditions, namely:-

(i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;

(ii) that during the period of intervening between the date on which the resignation became effective and the date from which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;

(iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than 90 days;

(iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.

(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or including or a composition or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.

[23] Though learned Advocate General argues that the entire judgment of ***Sajal Deb's case*** has to be implemented only through a scheme and when the scheme was framed by the State, already the petitioners had left for their new job, but such submission cannot be accepted for the reason that such direction to frame the scheme in said case, was only for the purpose of regularization of SSA teachers as contained in paragraph no.54 of the said judgment and not regarding granting of regular pay scale to them. Learned Advocate General also raises the point that there was no direction in the said judgment for giving benefit of past service in case any SSA teacher subsequently joins to another service. Such submission is also not acceptable as there was no such issue raised in that case ***[Sajal Deb's case]***. In the instant cases, the past services of the present petitioners are being taken into consideration only for the purpose of examining whether the State can be allowed to put a person again and again in the fixed pay regime just because he has chosen, as per his own estimation, a better employment subsequently.

[24] When a person has been appointed against a sanctioned post through a due selection process and the person so appointed possesses requisite qualification for the same and is also discharging similar duties like other regular employee, there is no reason to deny him the fruit of his labour by paying him less amount of remuneration, more particularly when he has already gone through such cost cutting phase introduced by the government for continuous 05 years under sufferance getting less salary in his previous employment. Putting him again under fixed pay regime will not only be irrational but also exploitative and arbitrary. Therefore, all the petitioners are entitled to get regular pay scale in the present employment with all ancillary benefits attached with that scale.

[25] Though, it is argued from the side of respondents that the petitioners have consciously accepted the terms and conditions of their new appointments including the condition of remaining on fixed pay for further five years and therefore, they cannot grieve against it. In the regard, it is to be kept in mind that in the era of serious unemployment issue and scarcity of government jobs, the unemployed people are in a position of unequal bargaining power with the State. For collecting minimum basic needs for him and his dependents, an employment seeker has no option but to accept such terms unless there is any other better alternative available to him. In **Jagjit Singh's case** also, Hon'ble Supreme Court took note of that situation and expressed

that such a person does so to provide food and shelter to his family, at the cost of his self-respect and dignity.

[26] Even, earlier long ago, Hon'ble Apex Court in case of ***Central Inland Water Transport Corporation Limited and another vs. Brojo Nath Ganguly and another, (1986) 3 SCC 156*** held that in case of unequal bargaining power, court should strike down an unfair and unreasonable contract. The relevant paragraph No.89 of the said decision is also extracted hereunder:

"89.....The principle is that the courts will not enforce and will, when called up to do so, strike down an unfair and unreasonable contract, or an unfair and unreasonable clause in a contract, entered into between parties who are not equal in bargaining power. it is difficult to give an exhaustive list of all bargains of this type. No court can visualize the different situations which can arise in the affairs of men. One can only attempt to give some illustrations. For instance, the above principle will apply where the inequality of bargaining power is the result of the great disparity in the economic strength of the contracting parties. It will apply where the inequality is the result of circumstances, whether of creation of the parties or not. It will apply to situations in which the weaker party is in a position in which he can obtain goods or services or means of livelihood only upon the terms imposed by the stronger party or go without choice, but to give his assent to a contract or to sign on the dotted line in a prescribed or standard form or to accept a set of rules as part of the contract, however unfair, unreasonable and unconscionable a clause in that contract or form or rules may be. This principle, however, will not apply where the bargaining power of the contracting parties is equal or almost equal. This principle may not apply where both parties is equal or almost equal. this principle may not apply where both parties are businessmen and the contract is a commercial transaction....."

[27] In case of ***Karnataka State Private College Stop-gap Lecturers Association Vs. State of Karnataka and others, (1992) 2 SCC 29***, the Apex Court held that irrespective of whether the appointments are temporary or permanent, there cannot be any justification to pay less salary to a temporary

employee than the regular employee when the nature of works are same, and method of payment of fixed salary less than the regular employee (herein teacher) adopting a different method was deprecated. The relevant paragraph of said judgment reads thus:

"5. Another obnoxious part is the emoluments that have been paid to the temporary teachers. The order provides that the teacher shall be paid a fixed salary which is ten rupees less than the minimum payable to regular employee. This method of payment is again beyond comprehension. An appointment may be temporary or permanent but the nature of work being same and the temporary appointment may be due to exigency of service, non-availability of permanent vacancy or as stopgap arrangement till the regular selection is completed, yet there can be no justification for paying a teacher, so appointed, a fixed salary by adopting a different method of payment than a regular teacher. Fixation of such emoluments is arbitrary and violative of Article 14 of the Constitution. The evil inherent in it is that apart from the teachers being at the beck and call of the management are in danger of being exploited as has been done by the management committees of State of Karnataka who utilised the services of these teachers for 8 to 10 years by paying a meagre salary when probably during this period if they would have been paid according to the salary payable to a regular teacher they would have been getting much more. Payment of nearly eight months' salary, by resorting to clause 5, and, that too fixed amount, for the same job which is performed by regular teachers is unfair and unjust. A temporary or ad hoc employee may not have a claim to become permanent without facing selection or being absorbed in accordance with rules but no discrimination can be made for same job on basis of method of recruitment. Such injustice is abhorrent to the constitutional scheme."

[28] Learned Advocate General relies on a decision as rendered in Director **General, Doordarshan Prasar Bharti Corporation of India (Supra)**. In this case, the Apex Court referring to rules 13 and 14 of the CCS (Pension) Rules held that qualifying service of a Govt. employee shall commence from the date he takes charge of the post to which he is first appointed, may be on officiating or temporary basis but casual or contractual

service cannot be treated to service rendered on substantive post. Said decision was rendered in different contexts.

[29] Rule 17 of the Pension Rules which is an exception to said rule 13, deals with counting of past service rendered on contract basis where option is given to a contractual employee either to retain government contribution received in his contributory provident fund, or to forego it. In case, any contractual employee foregoes it, his past service on contractual basis is counted for the purpose of pensionary benefits. Recently, in the case of ***S.D. Jayaprakash and others vs. Union of India and others, 2025 SCC OnLine SC 973***, where the appellants were appointed as Data Entry Operators under a scheme on temporary and contractual basis and later on were regularised in their service, the Apex Court held that their past services should be counted for the purpose of pensionary benefits on their exercise of option in this regard. According to Mr. Roy Barman, learned senior counsel submits, as SSA teachers, the petitioners were earlier enjoying non-contributory provident fund.

[30] The petitioners in this batch of writ petition have also made another prayer for a direction to the respondents to activate their GPF account, by accepting their monthly contribution till their retirement from service.

[31] The issues relating to GPF are regulated by the provisions of General Provident Fund (Central Services) Rules, 1960 which has been made applicable in Tripura with effect from

01.04.1960 by issuing a memorandum by the State. According to Mr. Roy Barman, learned senior counsel though all the petitioners were subscribers of GPF (non-contributory) while serving under SSA, after they were appointed in their subsequent employment, their GPF account has not been activated by the respondents yet. He also relies on the provisions of rule 35 of said Rules which is extracted hereunder:

35. Procedure on transfer of a Government servant from one Department to another-

(a) If a Government servant who is a subscriber to any other non-Contributory Provident Fund of the Central Government or of a State Government is permanently transferred to pensionable service in a Department of the Central Government in which he is governed by these rules, the amount of subscriptions, together with interest thereon, standing to his credit in such other fund on the date of transfer shall be transferred to his credit in the Fund:

Provided that where a subscriber was subscribing to a non-Contributory Provident Fund of a State Government, the consent of that Government shall be obtained.

(b) If a Government servant who is a subscriber to the State Railways Provident Fund or any other Contributory Provident Fund of the Central Government or a State Contributory Provident Fund is permanently transferred to pensionable service in a Department of Central Government in which he is governed by these rules and unless such a subscriber elects to continue to be governed by the rules of such Fund, when such an option is given-

- (i) the amount of subscriptions with interest thereon, standing to his credit in such Contributory Provident Fund on the date of transfer shall with the consent of the other Government, if any, be transferred to his credit in the Fund;**
- (ii) the amount of Government contributions, with interest thereon, standing to his credit in such Contributory Provident Fund shall, with the consent of the other Government, if any, be credited to the Central Revenues (Civil); and**
- (iii) he shall thereupon be entitled to count towards pension, service rendered prior to the date of**

permanent transfer, to the extent permissible under the relevant Pension Rules.

NOTE 1.-The provisions of this rule do not apply to a subscriber who has retired from service and is subsequently re-employed with or without a break in service, or to a subscriber who was holding the former appointment on contract.

NOTE 2.-The provisions of this rule shall, however, apply to persons who are appointed without break, whether temporarily or permanently to a post carrying the benefits of these rules after resignation or retrenchment from service under another Department of Central Government or under the State Government."

[32] By a notification issued in the month of January, 2019 by the Finance Department, the State Govt. has implemented National Pension Scheme in Tripura w.e.f. 01.07.2018. On the other hand, in terms of above said provisions of rule 35 of the GPF (Central Services) Rules, 1960, where the petitioners have been migrated or transferred to the pensionable services, the amount of such provident fund with interests lying in their credit in relation to their previous service, are required to be transferred to their new account by activating the same, and in other cases, such amount is required to be disbursed to them. Therefore, the respondents will examine the case of each of the petitioners and will take necessary steps in this regard in accordance with relevant provisions of law and rules.

[33] In view of above discussions, all the writ petitions are allowed. The respondents are directed to grant the petitioners the benefit of regular pay scale with all allowances with effect from the date of their joining in the subsequent employment and the arrears shall be disbursed to them within 06 (six) months of receipt of copy of this judgment in two phases. 50% of the arrear

in the first phase shall be paid within first three months. The respondents will also examine the case of each of the petitioners regarding transfer or disbursement of the amount lying in their provident fund account in terms of the discussions made in paragraph Nos. 31 and 32 above. Such exercise shall also be completed within three months of receipt of copy of this judgment.

With such terms and conditions, the writ petitions are disposed of.

Pending application(s), if any, shall also stand disposed of.

JUDGE

