

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.178 of 2025

Sri Asis Debnath,
son of late Sachindra Debnath, resident of
village- Sarashima, Belonia, South Tripura,
PIN-799155

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

- V e r s u s -

1. **The State of Tripura,**
represented by the Secretary, Department
of Revenue, Government of Tripura, New
Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex,
Agartala, West Tripura, PIN-799010
2. **The Secretary,**
Department Finance, Government of
Tripura, New Secretariat Building, New
Capital Complex, Kunjaban, P.S. New
Capital Complex, Agartala, West Tripura,
PIN-799010
3. **The Under Secretary,**
Revenue Department, Government of
Tripura
4. **The DM & Collector,**
South Tripura District, Belonia

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

For the Petitioner (s)	:	Mr. P. Roy Barman, Sr. Adv. Ms. A. Debbarma, Adv.				
For the Respondent (s)	:	Mr. D. Sarma, Addl. GA				
Date of hearing	:	23.09.2025				
Date of delivery of Judgment & order	:	16.12.2025				
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.D. PURKAYASTHA

JUDGMENT & ORDER

The petitioner was initially engaged as a Casual Worker
on 26.12.2011 by the District Magistrate & Collector, South Tripura,

in his establishment, which was later on, approved by the State Government and thereafter, by memorandum dated 29.06.2015, the District Magistrate & Collector, South Tripura engaged the petitioner along with other 7[seven] persons as Daily Rated Worker [DRW] with effect from the date of their respective joining as Casual Worker. Since then, the petitioner has been discharging his duties as a Caretaker [Group-D]. It is stated that he was engaged against the duly sanctioned post, which is evident from the letter dated 17.05.2014, issued by the DM & Collector, South Tripura to the State Government seeking approval for their engagement as DRW.

[2] The District Magistrate & Collector, South Tripura, thereafter sent another letter dated 21.02.2022, referring to his earlier letter dated 17.11.2021, for according necessary approval for regularization of above said 8[eight] DRWs posted in his office. The name of the petitioner was reflected against Sl. No.5. The State Government, in turn, vide letter dated 23.03.2022 asked the District Magistrate & Collector to follow the memorandum dated 31.07.2018 of Finance Department whereby the scheme of regularisation of DRW/Casual Worker/Contingent Worker were withdrawn by State. In the list of 8[eight] persons as proposed by the District Magistrate & Collector, South Tripura for regularisation, the name of the petitioner No.1 was placed at serial No.5 and below him, other three persons were Smt. Runu Majumder (Baidya), Smt. Juthika Chakraborty and Sri Rajib Nath.

[3] After rejection of such a proposal by the State Government, other 5[five] DRWs including the petitioner [except those 3 persons] filed W.P.(C) No.383 of 2022 in this High Court praying for regularization of their services and also for equal pay, like other regular Group-D employees. The said writ petition was dismissed by the learned Writ Court with an observation that the appointments of the petitioners were illegal and *dehors* the constitutional scheme. The learned Writ Court also relied on the decisions of the Hon'ble Supreme Court in cases of **Secretary, State of Karnataka and Ors. vs. Umadevi (3) & Ors., (2006) 4 SCC 1, National Fertilizers Ltd. vs. Somveer Singh, (2006) 5 SCC 493** and **Renu vs. District & Sessions Judge, Tis-Hajari, (2014) 14 SCC 50**. This way both the prayers for regularization and equal pay were turned down by the learned Writ Court.

[4] The present writ petitioner only thereafter preferred an appeal before the Division Bench bearing No.W.A.32 of 2024 and the Division Bench, while disposing the matter, observed that if the writ petitioners had been engaged on daily-rated basis or contractual basis against a vacant sanctioned post and had continued for more than 10 years of service, their cases for minimum scale of pay required consideration at the level of competent authority and accordingly, the respondents were directed to consider the claim of the said writ petitioners for minimum scale of pay from the post on which they were working.

The relevant paragraph of the said judgment is reproduced hereinbelow:

We have considered the submission of the learned counsel appearing for the parties and gone through the impugned judgment as well. It is true that the regularization scheme has been repealed on 31st July, 2018 by the State of Tripura but if the writ petitioners have been engaged on daily rated basis or contractual basis against sanctioned vacant post of drivers and have been continued for more than 10 years by now since their engagement in 2011, the petitioners' case for minimum scale of pay requires consideration at the level of the competent authority. The writ petitioners may not have entered through the regular recruitment process by way of an advertisement but have continued to discharge the duties as drivers for more than 10 years on the wages of a daily rated employee. As such, we are inclined to direct the respondents authority to consider the claim of the writ petitioners for minimum scale of pay to the writ petitioners on the post they are working. The writ petitioners are at liberty to make a representation within 2[two] weeks along with supporting documents. The competent authority under the respondents would consider the claim of the writ petitioners in accordance with law on such prayer within a period of 12 weeks from the date of receipt of the copy of such representation along with a copy of this order.

[5] It requires mention that after the learned Writ Court dismissed the writ petition, being W.P.(C) No.383 of 2022 filed by the present writ petitioner and others, the other 3[three] persons listed in the proposal for regularisation, namely said Runu Majumder (Baidya), Juthika Chakraborty and Rajib Nath, filed a separate writ petition bearing No. W.P.(C) 384 of 2024 praying for their regularisation on similar grounds and in the said writ petition, the learned Writ Court directed the respondents, particularly the DM & Collector, South Tripura to consider the regularization of the services of the said petitioners since they had already completed 10 years of service. It appears that in the said subsequent writ

petition, none of the parties disclosed the result of the previous decision of the said Writ Court in W.P.(C) No.383 of 2022.

[6] Anyway, after the direction given by the Division Bench of this Court, the present writ petitioner submitted a representation to the respondents in light of the said direction of the Division Bench but his representation was again turned down by the DM & Collector, South Tripura with the observation of the State Government that there was no policy decision of the State Government to regularise the DRW, Casual Workers etc. However, the State Government enhances the remuneration of such employees from time to time and therefore, the claim of the present petitioner for minimum of the pay scale of a Group-D employee was not considered.

[7] In view of the above, the present writ petitioner again filed this present writ petition, seeking the following redresses:

“(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to regularize the service of the Petitioner in the posts of Group-C on completion of 10 years of service as DRWs with all consequential, financial and ancillary benefits.

(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction directions of like nature shall not be issued whereby directing the Respondents to allow the benefit of equal pay for equal work by paying the wages of the Petitioner at par to the lowest stage of the pay scale of the post of Care Taker w.e.f., from the date of engagement as Care Taker on DRW basis.

(iii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to frame scheme for regularization of DRWs/

Casual/Contingent/ PTW, etc. Workers and similar other Workers, who have completed 10 years of service.

(iv) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby quashing and cancelling the Memorandum, dated, 28.08.2024, issued by the DM & Collector, South Tripura, Belonia issued."

[8] During hearing, learned senior counsel, Mr. P. Roy Barman, appearing for the petitioner submits that at present, the petitioner is not pressing the reliefs for regularization and regular pay scale at par with the Group-D employee as the said matters are already decided by this Court. However, in view of the decision of the Division Bench of this Court as indicated above, he is now pressing solely for the relief of the minimum of the pay scale of a Group-D employee. Learned senior counsel also submits that for more than 10 years continuously, the petitioner has been working as Caretaker (Group-D) which is the perennial nature of work required to maintain the functioning of the establishment of the District Magistrate & Collector, South Tripura and therefore, he is eligible to get the minimum of the pay scale of a Group-D employee. Mr. Roy Barman, learned senior counsel further relies on the following decisions:

(i) Sri Basudeb Debnath & Ors. v. Union of India & Ors., [WP(C) No.1162 of 2018 decided on 09.03.2021 by the Division Bench of this Court]- In this case, the petitioners were engaged as casual worker on the post of Multi Tasking Staff (MTS) on fixed monthly wages. They were discharging duties of perennial nature such as

cleaning, sanitation work, upkeeping of sections etc. Some of them in such status completed 20 years of service and some of them completed more than 10 years. Once, the respondents issued guidelines for getting such work done through outsourcing wherefore the petitioners feared termination. They approached the High Court and the High Court dismissed the petition with liberty to approach the Central Administrative Tribunal. The Tribunal disposed of the matter with the direction to the Department to dispose of the representation of the petitioners within 4 months. Against the said order, the petitioner approached the High Court again. The Division Bench of the High Court directed the respondents to form a committee to consider the cases of the petitioners for regularization if the petitioners fulfilled the conditions that they possessed necessary qualifications at the time of their initial engagement, and that they had already completed 10 years of engagement before the High Court in the first writ petition had granted them protection against termination. It was also further directed that none of the petitioners should be disengaged for outsourcing the work, however it would be open for the department to make appointments on regular basis upon which the concerned petitioners, if not qualified for regularization shall have to vacate the place. Further direction was that till any of those petitioners were

regularized and till those petitioners who did not qualify for regularization but continue to be engaged in the same capacity, they shall be paid daily wages at the minimum scale of pay prescribed for the post in question without attendant allowance. The Division Bench relied on the decision of Apex Court in case of **State of Punjab and Ors. v. Jagjit Singh & Ors., (2017) 1 SCC 148** and observed at paragraph No.17 that it would not be open for the State to continue to pay fixed wages to the workers for decades together when (i) their engagement was against sanction posts; (ii) they have been continued for long period of time; (iii) they fulfill the education qualifications prescribed for the post; (iv) the work is perennial in nature; (v) they have been engaged virtually continuously throughout since their initial engagements and (vi) they are doing the same work which regular staff members are doing.

(ii) Dharam Singh & Ors. v. State of UP & Ors., 2025 SCC OnLine SC 1735- In this case, in the prelude itself, it is observed by Hon'ble Supreme Court that when public institutions depend, day after day, on the same hands to perform permanent tasks, equity demands that those tasks are placed on the sanctioned posts, and those workers are treated with fairness and dignity.

[9] Mr. D. Sarma, learned Addl. G.A. appearing for the respondents, submits that the petitioner is neither entitled to get regularization, nor equal pay scale like a regular Group-D employee as the duties, responsibilities and mode of selection of the petitioner and the regular Group-D employee are quite different and therefore, he is not entitled to claim equal pay for equal work. Mr. Sarma, learned Addl. GA also relies on the following decisions:

(i) **Sri Sukradhan Chakma & Ors. vs. The State of Tripura & Ors., (WA No. 10 of 2023** decided on **05.03.2024** by Division Bench of this Court)- In this case, the petitioners were working as DRW for more than a decade and claimed for regularization of their services against Group-D posts. According to them, they had requisite qualifications for that posts and they were also discharging their duties for more than 08 hours, but they were not paid the pay scale pertaining to the said post. They also claimed minimum wages as per the Minimum Wages Act, 1956. During continuation of their such engagement, the State Government framed a scheme for regularization of such DRWs, casual workers, contractual workers etc. and before the writ petition was filed, said scheme was withdrawn. The Writ Court dismissed the petition for regularization on the ground that at that time, there was no policy of the Government existing for regularization. Finally, the Division Bench upheld the decision of the Ld. Writ Court with observations that during that time,

the regularization scheme was not in vogue and such regularization could only be made against sanctioned vacant posts. This decision is misplaced by Ld. Addl. GA. inasmuch as, the petitioners did not press for their claim of regularization in this writ petition now.

(ii) S.H. Baig v. The State of M.P., AIR Online 2018 SC 388 (decided on **25.09.2018**)- At paragraph no.12, it is observed by the Hon'ble Apex Court that even if persons are holding same rank/designation and having similar powers, duties and responsibilities they can be placed in different scales of pay and cannot claim the benefit of the principle of equal pay for equal work. It is also further observed that in that case, the qualifications for appointment, mode of recruitment, training, the duties and responsibilities not being similar, the appellants were not entitled for the relief of equal pay.

(iii) Shah Samir Bharatbhai & Ors. v. State of Gujarat & Ors., [Civil Appeal arising out of SLP(C) No.1347 of 2024 decided on **22.08.2025** with some other appeals analogously]- In one set of appeals, the Writ Court granted minimum pay scale of Assistant Professors to the respondents contractually appointed and the Letter Patent Appeals were dismissed. In another set, the Writ Court granted complete parity of pay of contractual Assistant Professors with similarly

placed Assistant Professors. In Letter Patent Appeals, said judgment was set aside. Hon'ble Supreme Court finally directed that the contractually appointed Assistant Professors should be entitled to the minimum pay scale admissible to Assistant Professors and arrears calculated at the rate of 8% should be paid from three years preceding the date of filing of the writ petition. Practically, this decision gives supports to the claim of the petitioner.

[10] This Court has considered the submissions of both sides.

[11] It is an undisputed fact that the petitioner did not enter into the service through a regular process of selection, but he was appointed as a DRW against a regular sanctioned post. It is also an undisputed fact that for more than 10 years, he has been discharging his duties as a Caretaker (Group-D). It was mentioned by the District Magistrate & Collector, South Tripura vide his letter dated 17.05.2014 [Annexure-1 to the writ petition] that after 4[four] new districts were formed in Tripura, total 69 posts for the said 4[four] districts were also created by the State Government and the concerned SDMs and BDOs of those districts were asked to explore whether any surplus workers were found in those Districts or not, but no surplus worker was found there though vehicles were provided by the Government to be driven for official duties and the posts of Bearer, Guard, Caretaker were also to be filled up immediately at that time. Considering that necessity, the DM &

Collector sought approval from the State Government for engagement of the petitioner and other persons as a DRW on contract basis against the available vacancy of the post. Therefore, such assertions of the DM & Collector itself signify that for day-to-day running of the business of the office of the District Magistrate & Collector, South Tripura, there was an urgent need of engagement of DRWs for which the petitioner was engaged and since his engagement in the year 2011, he has been discharging his duties which are perennial in nature. His duty is, therefore, not seasonal or temporary for a certain period as a stopgap arrangement. When the employer is requiring and also receiving regular work of a Group-D continuously for more than a decade, the State is under legal obligation to pay due remuneration to him against such work.

[12] In **Jagjit Singh** (*supra*), 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 situate 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.

[13] In this case, it was also held that the temporary employees are also entitled to get the benefit of “equal pay for equal work” provided they are to establish that they were rendering similar duties and responsibilities as were being discharged by regular employee. The relevant paragraph nos.45 to 45.5 of the judgment is excerpted herein below:

“45. We shall now attempt an analysis of the judgments, wherein this Court declined to grant the benefit of “equal pay for equal work” to temporary employees in a claim for pay parity with regular employees:

45.1. In *Harbans Lal case [Harbans Lal v. State of H.P., (1989) 4 SCC 459 : 1990 SCC (L&S) 71]*, daily-rated employees were denied the claimed benefit under the principle of “equal pay for equal work”, because they could not establish that the duties and responsibilities of the post(s) held by them were similar/equivalent to those of the reference posts under the State Government.

45.2. In *Grih Kalyan Kendra Workers' Union case [Grih Kalyan Kendra Workers' Union v. Union of India, (1991) 1 SCC 619 : 1991 SCC (L&S) 621]*, ad hoc employees engaged in the Kendras were denied pay parity with regular employees working under the New Delhi Municipal Committee, or the Delhi Administration, or the Union of India, because of the finding returned in the report submitted by a former Chief Justice of India that duties and responsibilities discharged by employees holding the reference posts were not comparable with the posts held by members of the petitioner Union.

45.3. In *State of Haryana v. Tilak Raj [State of Haryana v. Tilak Raj, (2003) 6 SCC 123 : 2003 SCC (L&S) 828]*, this Court took a slightly different course, while determining a claim for pay parity raised by daily wagers (the respondents). It was concluded that daily wagers held no post, and as such, could not be equated with regular employees who held regular posts. But herein also, no material was placed on record to establish that the nature of duties performed by the daily wagers was comparable with those discharged by regular employees.

Be that as it may, it was directed that the State should prescribe minimum wages for such workers and they should be paid accordingly.

45.4. In *State of Punjab v. Surjit Singh* [*State of Punjab v. Surjit Singh*, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696], this Court held that for the applicability of the principle of "equal pay for equal work", the respondents who were daily wagers, had to establish through strict pleadings and proof that they were discharging similar duties and responsibilities as were assigned to regular employees. Since they had not done so, the matter was remanded back to the High Court for a redetermination on the above position. It is therefore obvious, that this Court had accepted that where duties, responsibilities and functions were shown to be similar, the principle of "equal pay for equal work" would be applicable even to temporary employees (otherwise the order of remand would be meaningless, and an exercise in futility).

45.5. It is, therefore, apparent that in all matters where this Court did not extend the benefit of "equal pay for equal work" to temporary employees, it was because the employees could not establish that they were rendering similar duties and responsibilities as were being discharged by regular employees holding corresponding posts."

In this case, it was also observed that the ratio rendered in **State of Haryana v. Jasmer Singh, (1996) 11 SCC 77** was irreconcilable and inconsistent with the large number of judgments, some of which were of larger Benches, where the benefit of the principle of "equal pay for equal work" was extended to temporary employees including daily wagers.

[14] In **Jaggo vs. Union of India & Ors., AIR 2025 SC 296**, as relied on by Mr. Roy Barman, learned senior counsel, it was observed that the appellants were engaged as part-time worker on *ad-hoc* basis in Central Water Commission during the period from 1993 to 1999 as Safaiwali who were primarily responsible for cleaning and maintaining the office premises and one of the appellants was appointed as a Khallasi/Mali. They sought

regularization of their services and being refused thereby ultimately they approached the Hon'ble Supreme Court. While dealing with their such claim, the Hon'ble Supreme Court found despite being labelled as "part-time workers," the appellants were performing essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Regarding the law laid down in **Umadevi (3)** (supra), the Apex Court at paragraph-20 observed that the decision in **Umadevi (3)** (supra) did not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. Rather, said judgment sought to prevent backdoor entries and illegal appointments but where the appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution became paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially *ad-hoc* or temporary into a scenario demanding fair regularization. But the Government Departments often cite the judgment in **Umadevi (3)** (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate and this selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered

indispensable services over decades. Finally, the Apex Court directed that the services of said appellants be regularized.

[15] Further, in **Shah Samir Bharatbhai** (*supra*) as relied on by Mr. Sarma, learned Addl. G.A., also the Hon'ble Supreme Court directed the respondents to pay minimum pay scale admissible to Assistant Professors, the appellants of that case, who were contractually appointed as Assistant Professor and observed that there was no material whatsoever drawing out a distinction between the duties and functions performed by them and other colleagues appointed on regular basis.

[16] Admittedly, the present writ petitioner is working as a Caretaker (Group-D) in the establishment of the District Magistrate & Collector, South Tripura and therefore, discharging the function of a Group-D employee. There is no reason to deny him the fruit of his labour by giving him a low remuneration during his whole career when the nature of his work is indispensable for running the functioning of the office of the department. When he is working years after years to keep day-to-day official business in running condition, he deserves to be treated with fairness and dignity.

[17] It was observed by the Hon'ble Supreme Court in **Dharam Singh** (*supra*) that the long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection and "ad-hocism" thrives where administration is opaque.

[18] Considering all these aspects, it is held that the writ petitioner is entitled to get the minimum of the basic pay scale of a Group-D employee without any allowance, from the date of completion of his 10 years of service as a DRW employee. Arrears, if any, shall be paid by the respondents within 3[three] months from the date of receipt of copy of this judgment and order. The respondents are directed to act accordingly in terms of the above.

The writ petition is accordingly allowed and disposed of.

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

JUDGE



SUJAY GHOSH

Digitally signed by SUJAY GHOSH
Date: 2025.12.17 16:56:36 +05'30'

Sujay