

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 281 of 2024

1. **Sri. Rakesh Kumar Saha**, S/O:- Sankar Chandra Saha, R/O:- Motor-stand, Shanitala, P.O.:- Agartala, P.S.:- East Agartala, District:- West Tripura, Pin:- 799001, Aged about- 36 years.
2. **Sri. Subir Deb**, S/O:- Ranjit Kumar Deb, R/O:- Madhya Banamalipur, Agartala, P.O.:- Agartala, P.S.:- East Agartala, District:- West Tripura, Pin: 799001, Aged about- 36 years.
3. **Sri. Sudip Datta**, S/O:- Swapan Datta, R/O:- Alipurduar, P.O.:- Alipurduar court, P.S.:-Alipurduar, District:- Jalpauguri, West Bengal, Pin: 736122, Aged about- 34 years.
4. **Smt. Rasmi Saha**, C/O Dr. Ratan Kumar Saha, Gurkhabasti, Near Kunjaban Sporting Union Club, Agartala, Tripura(W) PIN-799006, Aged about- 34 years.
5. **Sri. Barnik Bhattacharya**, S/O:- Sri. Bijan Bhattacharya, R/O:-Barjala Airport road, P.O.:- Barjala, P.S.:- West Agartala, District:- West Tripura, Pin: 799002, Aged about- 32 years.
6. **Sri. Linkan Saha**, S/O:- Tapan Kumar Saha, R/O:- Ganaraj Chowmohani, P.O.:- Agartala, P.S.:- East Agartala, District:- West Tripura, Pin: 799001, Aged about- 34 years.
7. **Sri. Prasenjit Das**, S/O:- Nikhil Chandra Das, R/O:- Srinagar behind Ramthakur College, Madhya Badharghat, P.O.:- Siddhi Ashram, P.S.:- Amtali, District:- West Tripura, Pin:- 799003, Aged about- 34 years.
8. **Sri. Bimalendu Das**, S/O:- Lt. Bhajan Chandra Das, R/O:- Sekerkote, P.O.:- Sekerkote, P.S.:- Amtali, District:- West Tripura, Pin:- 799130, Aged about- 34 years.
9. **Sri. Kaushik Majumder**, S/O Kajal Majumder Vill & P.O- Reshambagan, Agartala, West Tripura, Pin-799008, Aged about- 30 years.

---Petitioner(s)

VERSUS

1. **The State of Tripura**, Represented by it's Secretary, Power Department, Govt. of Tripura, P.O- Secretariat, P.S- NCC, District- West Tripura, Pin- 799010.
2. **The Tripura State Electricity Corporation Limited**, Represented by its Managing Director, Bidyut Bhavan, Banamalipur, Agartala, West Tripura, Pin- 799005.

- 3. **The Managing Director**, Tripura State Electricity Corporation Limited, Bidyut Bhavan, Banamalipur, Agartala, West Tripura, Pin-799005.
- 4. **The Chairman**, Tripura State Electricity Corporation Limited, Bidyut Bhavan, Banamalipur, Agartala, West Tripura, Pin-799005.
- 5. **The Director (Finance)**, Tripura State Electricity Corporation Limited, Bidyut Bhavan, Banamalipur, Agartala, West Tripura, Pin-799005.
- 6. **The Regional Provident Fund Commissioner**, Employees Provident Fund Organisation, Sub-Regional Office, Airport Road, Near Bholagiri Ashram, Agartala, P.O- Kathalbagan, P.S- NCC, District- West Tripura, Pin- 799006.
- 7. **The Union of India**, Represented by its Secretary, Ministry of Labour and Employment, Govt. of India, Shram Shakti Bhawan Rafi Marg, New Delhi-110001

---Respondent(s)

For Petitioner(s)	: Mr. Arijit Bhowmik, Advocate. Mr. Ankur Saha, Advocate. Mr. Soumyadeep Dey, Advocate. Mr. Swarupam Saha, Advocate. Ms. Ishpa Chakma, Advocate.
For Respondent(s)	: Mr. Bibhal Nandi Majumder, Advocate. Mr. B. Majumder, Deputy SGI. Mr. Kohinoor N. Bhattacharjee, GA. Mr. Nepal Majumder, Advocate. Mr. B. Majumder, CGC.
Date of hearing and date of judgment and order	: 01.09.2025
Whether fit for reporting	: No

HON’BLE JUSTICE DR. T. AMARNATH GOUD

Judgment & Order (Oral)

- [1] Heard learned counsel for the parties.
- [2] This is a petition under Article 226 of the Constitution of India seeking the following relief(s):

- (i.)Issue notice upon the Respondents
 - (ii.)Call for the relevant records
 - (iii.)Issue Rule Calling upon the Respondents to show cause as to why the Petitioners shall not be enrolled under the un-amended Employees Pension Scheme of 1995from the date of their initial appointment under the Tripura State Electricity Corporation Limited on fixed remuneration as Management Trainee.
- AND
- Issue Rule calling upon the Respondents to show cause as to why the Petitioners shall not be permitted to contribute with maximum salary without ceiling limit under proviso to Para-11(3) of the Un-amended Employees Pension Scheme of 1995 upon option exercised by the Petitioners.

Issue Rule calling upon the Respondents to showcause as to why the letter dated 17.11.2203 issued by the Respondent No.6 shall not be interfered/ set aside by this Hon'ble Court to the extent that the Petitioners have been inducted under the EPS (Amendment Scheme), 2014 w.e.f 01.09.2014 and not from the initial date of joining in service under TSECL.

(iv.)And after hearing the parties make the rule absolute

[3] It is the case of the petitioners that the petitioners approach this Hon'ble Court under Article 226 of the Constitution of India seeking a Writ of Mandamus or any other appropriate Writ directing the respondents to enroll the petitioners in Employees Pension Scheme, 1995 from the date of Joining on fixed pay as Management Trainees. The petitioners further pray for a Writ of Mandamus or any other appropriate Writ upon the respondents to allow the petitioners to contribute under the un-amended Employees Pension Scheme, 1995 with maximum salary without ceiling limit upon exercising option under para-11(3) of the scheme for obtaining higher pensionary benefit after retirement. The petitioners further pray for a Writ of Certiorari for setting aside the letter dated 17.11.2023 whereunder the petitioners have been enrolled under the Employees Pension Scheme, 1995 w.e.f. 01.09.2014 i.e. the date of amendment of Employees Pension Scheme of 1995. The petitioner No.1 to 4 were appointed as Manager Grade-A under Tripura State Electricity Corporation Limited and the petitioner No.5-9 were appointed as Manager Grade-B under Tripura State Electricity Corporation Limited. The petitioners were appointed vide offer of appointment dated 5.6.2014 and all the petitioners joined in service under the Tripura State Electricity Corporation Limited in the month of June, 2014. Subsequently has been promoted to the post of Manager Grade-A by way of promotion on ad-hoc basis.

[4] At the time of appointment the petitioners were appointed through a selection process pursuant to an advertisement issued by the Tripura State Electricity Corporation Limited. The petitioners were appointed against sanctioned posts of Manager Grade-A/ Manager Grade-B carrying regular pay scale but the said regular pay scale was not extended to the petitioners for a period of 1 year as per the norms of Tripura State Electricity Corporation Limited. The Tripura State Electricity Corporation Limited has adopted Employees Pension Scheme, 1995 for its employees and accordingly proposal was sent by the Electricity Corporation for enrolment of the Petitioners under the Employees Pension Scheme, 1995 but to the disappointment of the petitioners, the petitioners were enrolled under the Employees Pension Scheme w.e.f. 01.04.2016, 01.10.2015, 01.10.2015, 01.01.2016, 01.03.2016, 01.04.2016, 01.04.2016, 01.04.2016, 01.03.2016 and 01.04.2016 respectively. The Central Government has notified the Employees Pension Scheme, 1995 under section 6(4) of the Employees Provident Funds and Miscellaneous

Provisions Act, 1952 which came into force on 16.11.1995. Vide notification dated 22.08.2014 bearing GSR No. 609 (E) the EPS Scheme was amended by Employees Pension (Amendment) Scheme, 2014. Under the said Scheme the wage ceiling provided by para 3(2) of the Employees Pension Scheme, 1995 has been increased to Rs.15,000 per month. The said amendment came into force w.e.f 01.09.2014. The petitioners have joined in service before the said amendment and a such the petitioners had right to be enrolled under the un- amended EPS Scheme, 1995 with option to contribute with maximum salary without ceiling limit under proviso to Paragraph-11(3) of the un-amended Employees Pension Scheme, 1995. But the said right of the petitioners was denied and violated. Verbally the Respondent No. 6 has informed that the Hon'ble Apex Court in R.C. Gupta Versus Regional Provident Fund Commissioner, Employees Provident Fund Organisation And Others, etc (Civil Appeal No. 10013-10014/2016) arising out of SLP (C) Nos. 33032-33033 of 2015 has held that Employees who contributed on higher wages upon exercising option under Para-11(3) of the EPF Scheme and were members prior to 01.09.2014 and continued to be member on or after 01.09.2014 were allowed to exercise Joint option under Un- amended Para 11(3) of the Employees Pension Scheme, 1995. this Hon'ble High Court vide Judgment and order dated 18.02.2022 passed in W.P.(C) NO. 75/2021 and Judgment and Order dated 26.06.2018 passed in W.P.(C) no. 1142/2016 has held that Employees of TSECL are entitled to have their training period counted towards qualifying service including the service required for Gratuity/ MACP benefit. The petitioners having no other alternative issued a legal notice upon the respondents on 3.10.2023 for redressal of their grievances.

[5] It further appears from the proposal submitted by the Chairman-cum-Managing Director of the Tripura State Electricity Corporation (respondent No.2 herein), dated 08.02.2010, has remained pending consideration before the Regional Provident Fund Commissioner, Agartala (respondent No.6 herein).

[6] In order to meet the ends of justice, this Court directs respondent No. 6 to take an appropriate decision on the said proposal concerning the applicability of the pension scheme to the petitioners herein, and to communicate such decision to the parties within a period of two months from the date of receipt of a copy of this order.

[7] It is further observed that, once such decision is taken, any party aggrieved thereby shall be at liberty to challenge the same before the competent court in accordance with law.

[8] With the above observation and direction, this present writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

**DIPAK
DAS**

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