

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.362 of 2024

Shri Bimal Bhattacharjee
son of late Chitta Ranjan Bhattacharjee, R/O-
Bama Kutir, Krishnanagar, TG Road, opposite
to Ramnagar Road No.3, P.O. Agartala, P.S.
West Agartala, District- West Tripura,
PIN-799001

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

- V e r s u s -

1. **The Tripura State Legal Services Authority,**
represented by its Member Secretary, having
office at Old District & Sessions Judge Court
Complex, P.O. Agartala, P.S. West Agartala,
District-West Tripura, PIN-799001
2. **The Member Secretary,**
Tripura State Legal Services Authority,
represented by its Member Secretary,
having office at Old District & Sessions
Judge Court Complex, P.O. Agartala, P.S.
West Agartala, District-West Tripura, PIN-
799001
3. **The Deputy Secretary,**
Tripura State Legal Services Authority,
represented by its Member Secretary, having
office at Old District & Sessions Judge Court
Complex, P.O. Agartala, P.S. West Agartala,
District-West Tripura, PIN-799001
4. **The District Secretary,**
District Legal Services Authority, represented
by its Member Secretary, having office at Old
District & Sessions Judge Court Complex, P.O.
Agartala, P.S. West Agartala, District-West
Tripura, PIN-799001

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

For the Petitioner (s)	:	Mr. A. Bhowmik, Adv. Ms. I. Chakma, Adv.				
For the Respondent (s)	:	Mr. R.G. Chakraborty, Adv.				
Date of hearing and delivery of Judgment & Order	:	16.07.2025				
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					
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner and Mr. R.G. Chakraborty, learned counsel appearing for the respondents.

[2] It appears from the pleadings of the parties that both the present petitioner and one Smt. Rama Chakraborty (not a party in the proceeding) were initially engaged as Legal Services Worker Grade-II (LDC) vide order of engagement issued to both of them separately on 03.05.2002. So far the order of engagement [Annexure-1 to the writ petition] of present petitioner, as extracted hereunder, is concerned, same contains the following terms and conditions:

On the basis of the interview held at Agartala, your name has been included in the panel of Legal Services Workers Gr.II (LDC) to work under the State Legal Services Authority/Permanent Lok Adalat at Agartala (which is a statutory body) as and when called for on no work no pay basis. Your daily remuneration will be Rs.140/- per day subject to a maximum of Rs.3,000/- per month. Your services will be necessary in connection with various legal services programmes. Your services will not be required when there will be no programme or fund from the National Legal Services Authority, State Government or other is not available or your performance is not found satisfactory.

If you are willing to work, you are requested to report to the office of the State Legal Services Authority, located at Ramnagar Road No.4, Agartala (First Floor of the Residence of Shri Sekhar Datta, Advocate) immediately for duty.

[3] Thereafter, both of them continued to work as Legal Services Worker Grade-II (LDC) and thereafter, their services were upgraded as Legal Services Workers Grade-I vide office order dated

15.05.2008 [Annexure-R/3 to the counter affidavit] and vide offer of appointment dated 18.06.2013 [Annexure-2 to the writ petition] they were appointed in the temporary post of UDC, Group-C in the pay scale under the revised Pay Band (PB)-2 of Rs.5310-24000/- with G.P. Rs.2100/- with other admissible allowances. Finally, both of them were promoted to the post of Head Clerk by a common office order issued by the Tripura State Legal Services Authority [for short, TSLSA] on 29.02.2016 [Annexure-3 to the writ petition]. According to their respective service books, the date of birth of Smt. Rama Chakraborty is 07.06.1963 and the date of birth of the petitioner is 03.01.1964. In view of above, Rama Chakraborty went on superannuation prior to the present petitioner on 30.06.2023 and the petitioner went on superannuation on 31.01.2024.

[4] At the time of retirement, said Smti Rama Chakraborty did not complete her 10 years of service for which she was not entitled to receive the pension. The resolution of the TSLSA dated 16.12.2022 [Annexure-6 to the writ petition] shows that to enable Rama Chakraborty to get the pension on completion of 10 years of service, the authority considered her prayer favourably to add half of the period of her past service rendered as contractual (no work no pay) LSG, Grade II (LDC) with her services rendered as regular employee, based on a memorandum of the State Government dated 07.10.2005 [Annexure-10 to the writ petition]. Relatively, it also requires reference here that prior to that resolution, said Rama Chakraborty submitted one representation before the TSLSA on

18.12.2020 [Annexure-R/13 to the counter affidavit] for counting half of her past service as Legal Services Worker as Grade-I & Grade-II both before her absorption in the regular service, to enable her to get the pension benefit on completion of 10 years of continuous service and the matter was referred to the Finance Department through the Law Department, Government of Tripura and in turn, the Finance Department on consideration of the same informed vide letter dated 24.05.2022 [Annexure-R/15 to the counter affidavit] that the case of Rama Chakraborty did not come under the purview of the extant rule of the State Government and therefore, the matter could be settled at the own level of TSLSA and thereafter, the matter was placed before the TSLSA and in its 41st Meeting, the above said resolution was taken to extend the benefit of such counting half of the period of her past service.

[5] After the petitioner went on retirement, he also filed a similar representation to TSLSA for counting the period of half of his past service as Legal Services Worker Grade-I & Grade-II and accordingly, the said matter was also taken up by the TSLSA in their 42nd Meeting on 11.01.2024 [Annexure-12 to the writ petition] and the authority rejected his claim on the ground that the petitioner was already eligible for getting pension and therefore, such benefit was not being provided to him. The relevant agenda No.2 and resolution thereof in this regard, are also extracted hereunder:

Agenda No.2- Discussion & decision on allowing pensionary benefits to Sri Bimal Bhattacharjee, Head Clerk (now posted in the office of DLSA, West Tripura) going to retire on 03.01.2024, counting half of his

services rendered as contractual (no work-no pay) LSW, Gr.II (LDC) & LSW, Gr-I(UDC) for his pension benefits etc.

Resolution: Members of the Authority present in the meeting thoroughly discussed and resolved that Sri Bimal Bhattacharjee, Head Clerk (now posted in the office of DLSA, West Tripura is already eligible for getting pension. So, the prayer of Sri Bhattacharjee for counting half of his services rendered as LSW, Gr.II & LSW, Gr-I(no work-no pay) for his pension benefits etc. has not been considered. The matter stands rejected.

[6] Being aggrieved by the said decision, the present writ petition has been filed by the petitioner.

[7] Mr. Bhowmik, learned counsel appearing for the petitioner strenuously argues that both said Rama Chakraborty and the petitioner are similarly situated persons and both of them were engaged initially as Legal Services Worker Grade-II on the same date and then were promoted as UDC also on the same date and thereafter, as Head Clerk also on the same date. Therefore, there was no reason to deny the benefit to him which was already provided to said Rama Chakraborty. According to Mr. Bhowmik, learned counsel, in-equal treatment has been done thereby between the equals violating Article 14 of the Constitution. Mr. Bhowmik, learned counsel also submits that the petitioner was engaged as full time worker as Legal Services Worker as Grade-II and as per Rule 14 of the Tripura State Legal Services Authority (Conditions of Service and the Salary and Allowances of the Officers and other Employees) Rules, 2012 (for short the Rules of 2012), the officers and other employees of State Legal Services Authority are entitled to all such facilities, allowances and benefits as are notified by the

State Government from time to time and also the scale of pay at par with the State Government employees holding equivalent posts and their age of retirement, pension, Death-Cum-Retirement Gratuity, pay and allowances, leave etc. are also governed by State Government rules. For further reference, the said Rule 14 is excerpted below:

(i) The officers and other employees shall be entitled to draw pay and allowances in the scale of pay at par with the State Government employees holding equivalent posts;

(ii) In all matters like age of retirement, pension, Death-Cum-Retirement Gratuity, pay and allowances, leave, other benefits and entitlements the officers and other employees shall be governed by the State Government rules as are applicable to persons holding equivalent posts:

(iii) The officers and other employees shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

[8] Mr. Bhowmik, learned counsel further contends that for not giving similar benefit to the present petitioner, like Smt. Chakraborty, he is now getting less amount of pension than Smt. Chakraborty despite the fact that he served the Institution for longer period than Smt. Chakraborty. Mr. Bhowmik, learned counsel, therefore, prays that similar benefit may be extended to the petitioner like Smt. Chakraborty.

[9] Mr. R.G. Chakraborty, learned counsel, on the other hand, referring to said two resolutions of TSLSA as indicated above, submits that the reason for extending the benefit of counting of half of the period of past service of Smt. Chakraborty as contractual employee was only to enable her to get the pension, otherwise she

would be deprived of the same. Mr. Chakraborty, learned counsel submits that as the Finance Department already left the matter for decision of the TSLSA without giving any decision on that issue, the TSLSA on their wisdom and giving due consideration to the attending facts, decided to extend such benefit to said Smt. Chakraborty on sympathetic ground, but in case of the present petitioner, already he had completed his regular service for above 10 years and became entitled to get pension and therefore, he was not entitled to get such sympathetic consideration. Mr. Chakraborty, learned counsel also submits that when in respect of Smt. Chakraborty, the Finance Department left the matter for decision of TSLSA without giving any decision on merit, the identical matter relating to the present petitioner was not further referred to the Finance Department.

[10] This Court has given due consideration to the submissions of the learned counsel of both the sides and has also considered the relevant materials placed by the parties through their pleadings and documents. It appears that the benefit of counting of half of the period of past service of Smt. Rama Chakraborty as contractual employee was allowed by the TSLSA relying on the memorandum dated 07.10.2005 [Annexure-10 to the writ petition] which provides that the half of the period of service of permanent labourers with regular service in continuation without any break will be counted for the purpose of pension and other pensionary benefits only in the event of their absorption in regular Government service. It appears that the said memorandum is concerned with the permanent

labourers. However, later on another memorandum was also issued by the State Government on 25.02.2010 [Annexure-11 to the writ petition] which deals with the counting of such half of the period of past service of employees like DRWs/ contingent workers/Monthly rated workers/ casual workers etc. who were paid from 'wages' on full time basis, and it was decided by the State Government that the benefit of counting of half of the period of continuous service rendered by them as DRWs/Contingent Workers/Monthly Rated Workers/Casual Workers working on full time basis would be counted towards pension following their regularisation with the approval of Finance Department. It was also clarified that the benefit provided under this circular would not have any relevance in declaration of employees as quasi permanent/permanent/counting of seniority/counting of period for the purpose of determining eligibility for extending the benefit of CAS/ACP. The relevant portion of the said memorandum is also extracted hereinbelow for better appreciation:

*(1) References have been received from different Departments seeking clarification about continuation of applicability of memo No.8(3)-FIN(G)/78 dated 16.08.1978 and memo even number dated 19.07.1982 regarding counting of half of the period continuous service rendered by Contingent Workers/Copyist/**Typist**/ Extra Moharars etc. who were paid from 'wages' on full time basis, towards pension and in respect of DRWs/Contingent Workers/Monthly Rated Workers/ Casual Workers working on full time basis and subsequently regularized as per Government decision.*

(2) After careful consideration of the matter, the Governor has been pleased to decide that the benefit of counting of half of the period of continuous service rendered by the DRWs/Contingent Workers/Monthly Rated Workers/Casual Workers who were engaged on full time basis and paid from 'Wages' would be counted towards pension following their regularization with the approval of the Finance Department.

The benefit provided under this circular will not have any relevance in declaration of employees as quasi permanent/permanent/counting of seniority/counting of period for the purpose of determining eligibility for extending benefit of CAS/ACP.

[11] On consideration of the said memorandum under Annexure 11, it appears that one of the basic criteria to apply the said memorandum is that the employee concerned to avail such benefit should be engaged on full time basis whose service was later on regularized. In respect of the issue involved in this writ petition, already the Finance Department left the matter for the decision of TSLSA while dealing with the case of said Smt. Chakraborty.

[12] The petitioner in this writ petition in paragraph No.13 has categorically asserted that he had served on full time basis as Legal Services Workers as Grade-II and then Grade-I and the said fact has not been specifically denied by the respondents in their counter affidavit. On query placed by this court on that issue asto whether the initial engagement of the petitioner was on full time basis or not, no specific reply has also come out from the respondents. Rather, the respondents again referred the initial engagement of the petitioner which is placed at Annexure-1 to the writ petition and already extracted hereinabove. Rule 3(g) of Rules of 2012 also envisages that existing Legal Services Workers Grade-I corresponds to UDC and Legal Services Workers Grade-II corresponds to **LDC-cum-Typist** respectively. The initial engagement of the petitioner was as Legal Services Workers Grade-II (LDC). Though it was also mentioned in the order of engagement that the daily remuneration

would be Rs.140/- per day subject to maximum of Rs.3,000/- per month and his services would be necessary in connection with the various legal services programmes and would not be required when there will be no programme or fund from the National Legal Services Authority, State Government or other is not available along with further condition that such engagement was on no work-no pay basis and as and when called for, but nothing could be placed or even asserted by the respondents that the petitioner was not in full time engagement in TSLSA. Generally, LDC level employees are engaged or appointed on full time basis.

[13] Considering all these aspects, it can be presumed that the petitioner's engagement as Legal Services Workers Grade-I & Grade-II was on full time basis. The services of both said Rama Chakraborty and the present petitioner, before their appointment as UDC were upgraded as Legal Services Workers Grade-I vide office order dated 15.05.2008 as indicated earlier. Both of them were appointed in the regular cadre of UDC vide offer of appointment dated 18.06.2013 [Annexure-2 to the writ petition]. Therefore, cases of both of them can be considered in the light of the memorandum dated 25.02.2010 [Annexure-11 to the writ petition]. When the benefit of counting of half of the period of past service as contractual employee was extended to said Smt. Chakraborty, on similar facts situation, there is no reason to deny such benefit to the present petitioner. The said memorandum dated 25.02.2010 or even the memorandum dated 07.10.2005 do not differentiate amongst the

persons who have already completed pensionable period of service and who have not completed the same. Both the petitioner and said Smt. Rama Chakraborty having stood on similar footings, similar treatment is required to be done to both of them.

[14] Considering all these aspects and in view of above said discussions, the writ petition is allowed. It is held that the petitioner is also entitled to get the benefit of counting half of the period of continuous past service having worked as Legal Services Workers Grade-II and Grade-I for the purpose of pensionary benefits. The respondents are directed to act accordingly to extend such benefit to the petitioner by taking necessary steps within 4[four] weeks from the date of receipt of the copy of this judgment and order.

Accordingly, the writ petition is disposed of.

Interim application(s), if any, also stands disposed of.

The service books of Sri Bimal Bhattacharjee and Smt. Rama Chakraborty be returned to Mr. R.G. Chakraborty, learned counsel.

JUDGE

SUJAY GHOSH Digitally signed by SUJAY GHOSH
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