

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.69 of 2025

Smt. Purabi Debbarma (41 years), D/O. Sri Kshirode Ranjan Debbarma,
Resident of Beltali, A.D. Nagar, Agartala, P.S.-A.D. Nagar, District-West
Tripura, Pin-799003.

..... Appellant(s).

V E R S U S

1. The State of Tripura, represented by the Secretary to the Government of
Tripura, Department of Higher Education, P.O.-Kunjaban, P.S.-N.C.C,
District-West Tripura, Pin-799006.

2. The Secretary cum Commissioner, to the Government of Tripura,
Department of Higher Education, New Capital Complex, P.O.-Kunjaban, P.S.-
N.C.C, District-West Tripura, Pin-799006.

3. The Director of Higher Education, Government of Tripura, New Capital
Complex, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, Pin-
799006.

4. The Principal, Tripura Institute of Technology, Narsingarh, Airport Road,
Singerbil, P.O.-Agartala, P.S.-Airport Police Station, District-West Tripura,
Pin-799009.

.....Respondent(s).

For Appellant(s) : Mrs. Sujata Deb (Gupta), Advocate,
Ms. Rumpa Dey, Advocate,
Ms. Ankita Saha, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

Date of hearing : 30.07.2025.

Date of judgment : 11.08.2025.

Whether fit for reporting : YES.

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

Heard Mrs. Sujata Deb (Gupta), counsel for the appellant as well
as Mr. Dipankar Sarma, counsel for the respondents-State.

2. This Writ Appeal is preferred against the judgment dt. 24.04.2025 of the learned Single Judge in WP(C) No.587 of 2024.

The background facts

3. The appellant was appointed on 01.08.2007 to the post of Senior Programmer (Computer), Group-B (Gazetted) in the Polytechnic Institute, now renamed as Tripura Institute of Technology, Narsingarh operating under the Higher Education Department of the Government of Tripura. After completion of the two years of service, she was permanently absorbed in the said post of Senior Programmer (Computer).

4. The appellant contends that since the date of her inception into service, she is rendering the duties of Assistant Professor like conducting Theory and Practical classes, paper setting, paper evaluation, examinations/seasonal conduct, acting as Lab in-charge, maintaining MIS software and also performing other basic academic duties; and since she was performing the duties and responsibilities similar to the post of Assistant Professor on the principle of "equal pay for equal work", she should be absorbed into the post of Assistant Professor.

5. The appellant gave representations to the respondent No.3 seeking the above relief.

6. According to her, the department did not reply to this representation and so she filed WP(C) No.556 of 2023 in this Court and on 01.09.2023 the said Writ Petition was disposed of directing the respondents to consider the representations dt. 14.11.2022, 13.03.2023 and 29.05.2023 submitted by the appellant.

7. According to the appellant, on 06.09.2023 she again gave a fresh representation informing about the judgment dt. 01.09.2023 in WP(C) No.556 of 2023 which was forwarded by the respondent No.2 to respondent No.3, but the respondent No.3 passed the order on 21.05.2024 rejecting the appellant's representation.

The impugned order dt. 21.05.2024 of the respondent no.3

8. In the order dt. 21.05.2024, the respondent No.3 stated that the appellant was appointed in the discipline of Computer Science and Engineering in the Tripura Institute of Technology, Narsingarh and she was recruited under the Recruitment Rules notified on 27.02.1996; that the said Recruitment Rules do not provide for any channel of promotion from the post of a Senior Programmer to the post of Assistant Professor; the post of a Senior Programmer is limited to demonstrating the computer programmes in Laboratories besides other assignments entrusted by the Principal from time to time; the appellant willingly accepted the offer of appointment on 10.07.2007 with terms and conditions and she joined on 01.08.2007.

It is also stated therein that the appellant may possess academic qualification for the post of Assistant Professor, but without going through a specific selection process as prescribed in the Recruitment Rules of Assistant Professor for Technical Colleges through the Public Service Commission, adopted by the Government of Tripura, in line with AICTE Regulations of 2019, she cannot be appointed to the post of Assistant Professor in Technical Colleges as this is a direct entry post.

9. The said order also stated that though a scheme had been framed for absorbing Post Graduate Teachers (PGTs) into the scale of pay of

Assistant Professor who were imparting teaching in the General Degree Colleges pursuant to an interim order passed on 16.03.2021 in W.A. No.201-205 of 2021 in WP(C) No.1391-1395 of 2019 vide a notification dt. 21.09.2022, but that scheme is meant only for PGTs working under Government General Degree Colleges and the appellant cannot take advantage of the same.

10. Assailing this order, the Writ Petition had been filed.

The WP(C) No.587 of 2024

11. The appellant had filed the said Writ Petition challenging an order dt. 21.05.2024 passed by the respondent No.2 rejecting the Writ Petitioner's representations dt. 14.11.2022, 13.03.2023 and 29.05.2023 seeking absorption to the post of Assistant Professor in Technical Colleges under Education (Higher) Department of the Government of Tripura.

The judgment of the learned Single Judge in the Writ Petition

12. The learned Single Judge referred to the contents of the impugned order dt. 21.05.2024 and held that the appellant was appointed as Senior Programmer in the discipline of Computer Science and Engineering in the Tripura Institute of Technology, Narsingarh as per the Recruitment Rules; and as per the said Rules, there was no scope to attain promotion or absorption into the post of Assistant Professor without proper selection process through Public Service Commission following the Recruitment Rules for filling up post of Assistant Professor of Technical Institutes in line with the AICTE Regulations, 2019.

13. The learned Single Judge held that the Supreme Court, in the case of *Union of India vrs. Indian Navy Civilian Design Officers Association and*

*another*¹, following its previous judgments held that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error has crept in while fixing the pay scale for a given post; and the interference of the Court is absolutely necessary to undo the injustice. In the said judgment, the Supreme Court held that the powers of judicial review in the matters involving financial implications are very limited and any opinion expressed by a particular officer cannot be treated as a decision of the Government.

14. Applying the said judgment, the learned Single Judge dismissed the Writ Petition.

The Writ Appeal

15. Challenging the same, this Writ Appeal is filed.

16. Counsel for the appellant contended that the appellant had applied under the Right to Information Act, 2005 on 13.03.2023 to the Tripura Institute of Technology, Narsingarh and on 27.03.2023 response was given under the said Act by the said Institution that the job nature of Assistant Professor in the Institute is similar to other Assistant Professors in different Government Colleges under the control of the Higher Education Department, Government of Tripura and all Assistant Professors have to perform all types of academic duties and one or more additional administrative duties as assigned by competent authority from time to time.

17. She also contended that in the response dt. 06.04.2023 given to another RTI application dt.4.4.2023, it is also stated specifically that the

¹ 2023 SCC OnLine SC 173

nature of job of the appellant is similar to that of teaching faculty and the job performed by her is similar to that of entry level Assistant Professor of the Tripura Institute of Technology as the basic duties assigned and performed by her are akin to those duties performed by a regular Assistant Professor.

18. In the case of **Central Board of Secondary Education and another vrs. Aditya Bandopadhyay and others**² the Supreme Court held that the Right to Information Act, 2005 provides access to all information that is available and existing; if a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act; but where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. It held that a public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide "advice" or "opinion" to an applicant, nor required to obtain and furnish any "opinion" or "advice" to an applicant.

19. This was reiterated in the case of **Central Public Information Officer, Supreme Court of India vrs. Subhash Chandra Agarwal**³ at paragraph-40.

20. The responses dt. 27.03.2023 and 06.04.2023 relied upon by the appellant contain, in our view, *opinion* of the officer concerned and it cannot

² (2011) 8 SCC 497

³ (2020) 5 SCC 481

be treated as the opinion of the State Government. It is not within the province of the authority under the RTI Act to express opinions on matters of equivalence of posts or duties which only an Adjudicatory Body like a Court can do. Therefore, the appellant is not entitled to place any reliance on the same.

21. Admittedly, the post of Assistant Professor for Technical Colleges is to be filled up by following Recruitment Rules adopted by the Government of Tripura in line with AICTE Regulations of 2019 through the Public Service Commission. There is no channel of promotion from the post of Senior Programmer to the post of Assistant Professor, and the post of Assistant Professor is to be filled up by direct recruitment only.

22. Without having got recruited as Assistant Professor through the Public Service Commission, it is not open to the appellant to claim the said post or the pay of the said post through the backdoor method of obtaining certificates under the RTI Act, 2005 as referred to above.

23. The judgment of the Apex Court in the case of **Arindam Chattopadhyay and others vrs. State of West Bengal and others**⁴ relied upon by the counsel for the appellant is distinguishable because in the said case, the respondents, the State of West Bengal, did not dispute that the appellants before the Supreme Court had been discharging the duties of CDPO.

24. Such is not the situation in the instant case, because it is the specific contention of the respondents in their counter affidavit that the duties being performed by the appellant are primarily limited to demonstrating the computer programmes in Laboratories at Technical Institutions, besides other

⁴ (2013) 4 SCC 152

assignments entrusted by the Principal from time to time. They also stated that she is an additional support staff to assist the Assistant Professors in the teaching/learning process and besides other assignments entrusted by the Principal from time to time and it is part of the curriculum. They denied that the duties and responsibilities of the Senior Programmer, Tripura Institute of Technology can be treated at par with that of the post of Assistant Professor.

25. The decision in the case of ***State of Tripura and others vrs. K.K. Roy***⁵ dealt with a situation where a person was appointed after selection as Law Officer-cum-Draftsman in the Directorate of Cooperation of the Government of Tripura, but the said post had no promotional avenues and he was claiming higher grade of pay, one upon expiry of twelve years from the date of joining in service and the other after expiry of twenty-four years thereof.

The Supreme Court deprecated the failure on the part of the State to frame such a scheme when similar schemes had been framed by other States on recommendations of the Pay Commission.

It also held that the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India could not have issued a Writ of Mandamus directing the State of Tripura to grant a higher scale of pay.

However, on the facts of the case, the Supreme Court granted such relief. The said judgment, therefore, also cannot come to the assistance of the appellant.

26. The impugned order dt. 21.05.2024 passed by the respondent No.3 was rightly upheld by the learned Single Judge who has given cogent

⁵ (2004) 9 SCC 65

reasons for denying relief to the appellant, and his order does not warrant any interference by this Court in exercise of the Letters Patent jurisdiction.

27. We, therefore, do not find any merit in the present appeal which is accordingly dismissed.

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

(S. DATTA PURKAYASTHA, J) (M.S. RAMACHANDRA RAO, CJ)



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