

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.413 of 2024

Sri Subhasish Ghosh,
S/o Lt. Jahar Lal Ghosh,
05/08 Indranagar, South Side of Dairy,
P.O. Indranagar, Agartala,
Kunjaban, West Tripura,
Tripura 799006.

.....Petitioner(s)

- V e r s u s -

1. The State of Tripura,

To be represented by the Secretary,
PWD (R&B), Govt. of Tripura, New Capital Complex,
New Secretariat Building, Agartala, West Tripura, PIN-799010.

2. The Secretary, Finance Department,

Govt. of Tripura, New Capital Complex,
New Secretariat Building, Agartala, West Tripura, PIN-799010.

3. The Chief Engineer (R&B),

Govt. of Tripura, New Capital Complex,
New Secretariat Building, Agartala, West Tripura, PIN-799010.

..... Respondent(s)

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. S. Bhattacharjee, Advocate.
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For the Respondent(s)	:	Mr. M. Debbarma, Addl. G.A.
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Date of hearing and delivery : **11th February, 2025.**
of Judgment & Order

Whether fit for reporting : **NO.**

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (Oral)

Heard Mr. P. Roy Barman, learned senior counsel appearing
for the petitioner and Mr. M. Debbarma, learned Addl. G.A. appearing
for the respondents-State.

In terms of the order dated 24.01.2025, an affidavit has been submitted by the respondents-State.

2. The petitioner's case is that he was engaged as Casual Worker, Group-D on 11.11.1992 by Public Works Department (for short, PWD) under the control of Executive Engineer, Mechanical Division, Agartala and continued as Casual Worker (Group-D) in the Department until his regularization as Helper, Group-D on 01.07.2008. When he was initially engaged as Casual Worker vide memorandum dated 11.11.1992 (Annexure-R/1), his academic qualification was Madhyamik plucked but subsequently in the year 1994, he passed his Secondary School Examination from National Open School, New Delhi. He also completed the course of I.T.I. (Trade Welder) in the year 1989 before his engagement as Casual Worker.

3. According to Mr. Roy Barman, learned senior counsel, though the petitioner's name was recorded as Casual Worker, Group-D but he rendered his service in the Department as a Technical person of Group-C category. He also obtained HSLC certificate in the year 1994. Thereafter, pursuant to memorandum bearing No.F.10(2)FIN(G)/2008(Part), dated 01.09.2008 (Annexure-8), of Finance Department, the DRWs/Contingent/Casual Workers appointed on temporary basis were regularized vide office order dated 08.06.2009 (Annexure-5), issued by the PWD, w.e.f. 01.07.2008 wherein name of the present petitioner stood at serial No.52 with mentioning of his designation as 'Helper(Mech.)'. Before issuance of that office order, on 11.11.2008 (Annexure-6), as a preparatory step to their regularization, another memorandum was issued by the Department (Annexure-6),

wherein name of the present petitioner was mentioned against serial No.99 showing him as Casual Worker, Group-D and his qualification was mentioned as Madhyamik plucked. The petitioner has submitted a photocopy the marksheet, dated 24.08.1994 (Annexure-2) of his qualifying Secondary School Examination in June, 1994. It is also submitted by the learned senior counsel that as a Casual Worker, the petitioner was paid wages @ Rs.81.76 vide office order No.42, dated 14.05.2009 (Annexure-4), which was the wage of a Group-C, Technician but despite the same he was regularized in Group-D post. With such grievances the writ petition has been submitted with the following prayers :

"a) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to regularize the Petitioner with all incidental and consequential benefit in the post of Group-C w.e.f. 01.07.2008 on which date the Petitioner was regularized in the post of Helper, Group-D after completion of 10 years as Casual Worker, Group-D since his initial engagement on 11.11.1992.

b) Make the rules absolute.

c) Call for records.

d) Pass any further order/orders as this Hon'ble High Court considered fit and proper."

4. Further, learned senior counsel raises a contention referring to an office order dated 29.05.2021 (Annexure-9) of the Department, that service of another similarly situated person, namely Sri Sibbu Deb was regularized w.e.f. 01.01.2007 as Work Assistant, Group-C in suppression of his earlier regularization of service as Peon, Group-D. For reference, the entire office order under Annexure-9 is extracted herein below :

GOVERNMENT OF TRIPURA
OFFICE OF THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (R&B)
No.F.6(29)-PWD(E-II)/07(Part-I)/1447-54 Dated, Agartala the 29th May, 2021

OFFICE ORDER

Consequent upon endorsement given by the Finance Department, Government of Tripura vide U.O. No.1664/Fin(L)/07, dated 07/12/2007 & the subsequent concurrence obtained from the Finance Department, Government of Tripura vide U.O No.970/FIN(ESTT-III)/2021, dated 22/01/2021 as well as by the Law Department, Government of Tripura vide Note No-17 followed by approval accorded from PWD vide U.O No.883..Secretary, PWD, dated 03/05/2021, a fresh appointment in favour of **Shri Sibü Deb to the post of Work Assistant Group C on regular basis with effect from the date of regularisation in the earlier Group-D post in cancellation of his earlier appointment as Peon, Group-D** issued vide Order No.F.6(29)-PWD(E-II)/2007, dated 10/01/2008 of the Chief Engineer, PWD (R&B) is being made with the following place of posting mention against Column :-

Name of Candidate	Category of Post in which regularization will be effected	Whether belongs to SC/ST/UR	Date of regularisation w.e.f. as Group-C	Pay Scale AS per ROP 2009	Present Place of Posting	Proposed place of posting
2	3	4	5	6	7	8
Shri Sibü Deb	Work Assistant Group-C	UR	01-01-2007	Rs.3300/- - Rs.7100/-	O/o the Chief Engineer. PWD (NH), P.N. Complex, Agartala, Tripura(West)	O/o the Assistant Engineer, Central VII Sub Division, PWD (R&B), Agartala.

His pay scale may be fixed in the relevant grade for regularisation with prospective effect & his pay be notionally fixed with effect from 01/01/2007 & all other terms and conditions of service as applicable to the Work Assistant, Group-C employee of the Government of Tripura will be enforced for his case.

Shri Deb is also directed to join in his new place of posting on 01/06/2021 without fail. No TA/DA is admissible for joining to the post at the place of posting.

Er. Dipak Chandra Das
Engineer-in-Chief, PWD
Government of Tripura

5. Learned senior counsel also submits that said Sri Sibü Deb, was engaged as Casual Worker and did not have the qualification of

Madhyamik pass at the time of his initial engagement like the present petitioner and he obtained the same later on before the date of his regularization as Group-D and when said order came to the notice of the Department, immediately the same error was corrected by regularization of his service against Group-C post with retrospective effect from the date of his original regularization as Group-D.

6. Mr. Debbarma, learned Addl. G.A., on the other hand, referring to the list of employees as annexed in the memorandum dated 11.11.2008 (Annexure-6), submits that the petitioner in said list has been shown as Casual Worker, Group-D. Therefore, at the time of regularization, he was regularized as a Group-D employee. However, learned Addl. G.A. admits that despite his engagement as Group-D worker, he would receive the wage of Group-C, Casual Worker at the above said rate of Rs.81.76. The next point as raised by the learned Addl. G.A. is that the petitioner obtained the qualification of Madhyamik pass without taking permission from the Department. Learned Addl. G.A. further referring to a letter of Executive Engineer addressed to Engineering Officer dated 15.11.2008 (Annexure-3), submits that on asking the petitioner himself produced Madhyamik plucked marksheet which was forwarded by the Executive Engineer to the Office of Chief Engineer and for that reason, he was regularized against the post of Group-D.

7. I have given anxious consideration to the rival submissions of the parties and also have taken note of the materials placed on record by the parties.

8. Learned senior counsel has relied on a decision of Coordinate Bench of this Court passed in **WP(C) No.410 of 2024**, in a case between **Smt. Anima Debnath versus The State of Tripura & Others**, wherein said Smt. Anima Debnath was also engaged as Casual Worker in PWD on 12.08.1992 but later on, she passed Madhyamik Examination in the year 1994. On 01.07.2008, her service was regularized as Peon, Group-D though in case of above said Sri Sibu Deb, his service was later on regularized against Group-C post. In that backdrop, said Smt. Anima Debnath with similar prayer like the present petitioner filed the said writ petition before this Court. The Court finally directed the respondents to consider the case of the petitioner for her appointment as Group-C employee in accordance with the Recruitment Rules prescribed for the post of Group-C within a period of 3(months) months. Learned senior counsel submits that in compliance with the said judgment, the Department has already regularized the service of Smt. Anima Debnath against Group-C post.

9. Learned senior counsel also relies on another decision of this Court, dated 13.09.2024, in a case between **Smt. Aparajita Bhowmik versus The State of Tripura & Others**, in **WP(C) No.411 of 2024**, and submits that said Smt. Aparajita Bhowmik was also similarly situated person like, Smt. Anima Debnath and said Sri Sibu Deb and her service was also regularized after the judgment passed by this Court in said WP(C) No.411 of 2024 for her regularization against the Group-C post. Learned senior counsel also refers to an office order dated 02.01.2025, to show that service of said Smt. Aparajita Bhowmik was also regularized against Group-C post with retrospective effect from 01.07.2008 in terms of the direction of this Court.

10. So far the point raised by the learned Addl. G.A. that without obtaining No Objection Certificate (for short, NOC) from the competent authority for appearing in Madhyamik Examination was concerned, said matter was already decided by the Court in said **Smt. Anima Debnath**(supra) and **Smt. Aparajita Bhowmik**(supra) with observations that non-obtaining of NOC from the competent authority for appearing in Madhyamik Examination cannot be a ground to reject the claim of the petitioners as they were discharging duties of DRW at that time.

11. From the Note No.7 of the Finance Department as submitted by the petitioner, it appears that the Finance Department also expressed their opinion that the candidate who had passed Madhyamik Examination and had also received the wages as DRW (Group-C), there might not be sufficient ground to deny them regularization as Group-C employee and therefore, the Department was requested to re-examine their existing stand and if the findings were found in consonance with the RR of Group-C post, then the benefit of movement to Group-C post might be allowed to the person prospectively, to avoid litigation.

12. The petitioner has also relied on another Note No.17, dated 19.04.2021, wherein the Law Department also observed that it was not necessary that on the date of engagement as DRW the candidate have to pass HSLC Examination. It was to be seen whether the concerned employee had passed HSLC Examination for the purpose of his regularization as Group-C.

13. In the affidavit submitted by the respondents pursuant to order dated 24.01.2025, it has been categorically stated by the respondents that both the Casual Worker (Clerk) and Casual Worker (Technical) are Group-C posts based on their wages drawn by the respective categories of person. The present petitioner also had drawn the wages of a Casual Worker (Technical), and thus, from such assertion, it appears that the petitioner was also treated as a Group-C employee by the Department. Moreover, as it appears, the present case is also wholly covered by the decision of this Court in the case of **Smt. Anima Debnath**(supra) and **Smt. Aparajita Bhowmik**(supra).

14. Considering all these aspects, the writ petition is allowed. The respondents-State are directed to consider the case of the present petitioner for employment as Group-C employee in accordance with the Recruitment Rules as prescribed for Group-C post within a period of 3(three) months from the date of receipt of a copy of this order.

With such observation(s) and direction(s) the present writ petition is disposed of.

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

JUDGE

**SATABDI
DUTTA** Digitally signed by
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