

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C)No.637 of 2023

1. Gautam Kumar Saha,

son of Late Gopal Chandra Saha,
resident of Arati Nibash (Near Bharati Press),
North Banamalipur, Agartala, West Tripura,
Pin-799001

2. Sajal Dutta,

son of Late Harimohan Dutta,
resident of Shiuli Apartment,
near Kalimandir, P.O. Indranagar,
Agartala, West Tripura, pin-799006

3. Pradip Kumar Saha,

son of Late Upendra Kumar Saha,
resident of Rajarbag School Road,
P.O. Rajarbag, Udaipur,
District-Gomati Tripura, Pin-799120

4. Pradip Chakraborty,

Son of late Suresh Chandra Chakraborty,
Resident of Bhangerpar, P.O. Rajarbag,
Udaipur, District-Gomati Tripura, Pin-799120

5. Ganesh Chandra Sarkar,

son of Late Amulya Chandra Sarkar,
resident of MMC Road, Sidhai Mohanpur,
District-West Tripura, Pin-799211

6. Pallab Bhattacharjee,

son of Late Kshindra Bhattacharjee,
resident of Badharghat, P.O. A.D. Nagar,
Agartala, District-West Tripura, Pin-799003

7. Arpan Kumar Biswas,

son of Late Indra Mohan Biswas,
resident of Dimsagar Choumuhani,
P.O. Agartala, District-West Tripura,
Pin-799001

8. Krishnapada Bhowmik,

son of Late Gopi Mohan Bhowmik,
resident of Ashram Choumuhani,
P.O. Dhaleswar, Agartala,
District-West Tripura, Pin-799007

9. Kisalay Shome,

son of Late Harimohan Shome,
resident of Ramnagar Road No.10,
P.O. Ramnagar, Agartala,
District-West Tripura, Pin-799002

10. Bidyut Kanati Chowdhury,

son of Late Santosh Ranjan Ramnagar,
resident of Road No.10, P.O. Ramnagar,

Agartala, District-West Tripura, Pin-799002

11. Dulal Chandra Bhowmik,

son of Late Jagadish Chandra Bhowmik,
resident of Bhowmik Bari, near Katakhal,
P.O.Indranagar, Agartala, District-West Tripura,
Pin-799006

12. Sujit Kumar Saha,

son of Late Mahendra Chandra Saha,
resident of Vidyasagar Road,
Behind KBI boarding, P.O. R.K. Pur,
Udaipur, District-Gomati Tripura

13. Samarjit Das,

son of late Girish Chandra Das,
resident of Collegetilla,
Sarbadhan Mission, A.D. Nagar,
Agartala, District-West Tripura,
Pin-799003

14. Haradhan Das,

son of late Girendra Chandra Das,
resident of R.K. Mission Road,
Gandhighat, P.O. Agartala,
District-West Tripura, Pin-799001

15. Amal Choudhury,

son of Late Nitai Choudhury,
resident of Village & P.O.-West Bhubanban,
Agartala, District-West Tripura, Pin-799002

16. Bishnu Prasad Roy,

son of Late Dinesh Chandra Roy,
resident of College Tilla,
P.O. Agartala College, Agartala,
District-West Tripura, Pin-799002

----- Petitioner(s)

Versus

1. The State of Tripura,

represented by the Commissioner &
Secretary to the Public Works Department,
Government of Tripura, New Secretariat
Complex, Gurkhabasti, Agartala, P.O. Kunjaban,
P.S. New Capital Complex, Sub-Division-Sadar,
District-West Tripura

2. The Deputy Secretary,

Public Works Department(R&B),
Government of Tripura, New Secretariat
Complex, Gurkhabasti, Agartala, P.O. Kunjaban,
P.S. New Capital Complex, Sub-Division-Sadar,
District-West Tripura

3. The Commissioner & Secretary,

Finance Department, Government of Tripura,
New Secretariat Complex, Gurkhabasti, Agartala,

P.O. Kunjaban, P.S. New Capital Complex,
Sub-Division-Sadar, District-West Tripura

4. The Chief Engineer,

Public Works Department(R&B),
Government of Tripura, New Secretariat
Complex, Gurkhabasti, Agartala, P.O. Kunjaban,
P.S. New Capital Complex, Sub-Division-Sadar,
District-West Tripura

----Respondent(s)

For Petitioner (s)	:	Mr. Purusuttam Roy Barman, Sr. Adv. Mr. Samarjit Bhattacharjee, Adv. Mr. Koomar Chakraborty, Adv.
For Respondent(s)	:	Mr. Mangal Debbarma, Addl. G.A. Mr. Dipankar Sharma, Addl. G.A.
Date of Hearing	:	19.02.2025
Date of Judgment & Order	:	27.02.2025
Whether fit for reporting:	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

The petitioners have filed this writ petition
seeking for the following reliefs :

“(i) *Issue Rule*, calling upon the Respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, mandating/directing them to revoke/rescind the impugned Orders, each dated 01.09.2023 (Annexures-15 & 16 respectively supra);

(ii) *Issue Rule*, calling upon the Respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issue, mandating/directing them to fix the pay scale of the Petitioners, in the pay scale of Rs.1,450-3,710/-, with effect from the date, when the Tripura State Civil Services (Revised Pay) Rules, 1988 came into force (i.e. w.e.f.01.01.1986), and thereupon, to grant the pay scale of Rs.1,700-3,980/- as the 1st scale up-gradation on completion of 10 years of service as per the Tripura State Civil Services (Revised Pay) Rules, 1988, pay scale of Rs.6,500-12,300/- as CAS-II on completion of total 17 years of service as per the Tripura State Civil Services (Revised Pay) Rules, 1999 & pay scale of Rs.9,570-30,000/- (with Grade Pay of Rs.3,500/-) on completion of total 25 years of service as per the Tripura State Civil Services (Revised Pay) Rules, 2009, and to release all the consequential benefits flowing therefrom alongwith arrears thereof, and to modify the respective Pension Payment Orders of the Petitioners, in tune therewith;

(iii) Call for the records, appertaining to this Writ Petition;

- (iv) After hearing the parties, be pleased to make the Rule absolute in terms of (i) & (ii) above;
- (v) Costs of and incidental to this proceeding;
- (vi) Any other Relief(s) as to this Hon'ble High Court may deem fit and proper;"

[2] Heard Mr. Purusuttam Roy Barman, Learned senior counsel assisted by Mr. Samarjit Bhattacharjee, Learned counsel and Mr. Koomar Chakraborty, Learned counsel appearing on behalf of the petitioners as well as Mr. Mangal Debbarma, Learned Addl. G.A. and Mr. Dipankar Sharma, Learned Addl. G.A. appearing on behalf of the respondents.

[3] The brief facts as mentioned in the writ petition filed by the petitioners are in short is that the petitioners No.1 to 16 namely Sri Gautam Kumar Saha (Petitioner No.1), Sri Sajal Dutta (Petitioner No.2), Sri Pradip Kumar Saha (Petitioner No.3), Sri Pradip Chakraborty (Petitioner No.4), Sri Ganesh Chandra Sarkar (Petitioner No.5), Sri Pallab Bhattacharjee (Petitioner No.6), Sri Arpan Kumar Biswas (Petitioner No.7), Sri Krishnapada Bhowmik (Petitioner No.8), Sri Kisalay Shome (Petitioner No.9), Sri Bidyut Kanti Chowdhury (Petitioner No.10), Sri Dulal Chandra Bhowmik (Petitioner No.11), Sri Sujit Kumar Saha (Petitioner No.12), Sri Samarjit Das (Petitioner No.13), Sri Haradhan Das (Petitioner No.14), Sri Amal Choudhury (Petitioner No.15) and Bishnu Prasad Roy (Petitioner No.16) all were appointed to the post of Draftsman Grade-III (Civil), under the PWD, Government of Tripura in the pay scale of Rs.560-1,300/- along with admissible benefits available from time to time vide appointment bearing reference No.F.1(87)-IFCD(E)/81 dated 03.12.1982, F.1(87)-IFCD(E)/81 dated 03.12.1982, F.1(87)-IFCD(E)/81 dated 03.12.1982, F.1(87)-IFCD(E)/81 dated 02.09.1981, F.1(87)-IFCD(E)/81 dated 03.12.1982, F.1(87)-IFCD(E)/81 dated 02.09.1981, F.6(13)-PWD(E)/81 dated

02.12.1982, F.6(13)-PWD(E)/81 dated 02.12.1982, F.6(13)-PWD(E)/81(S-I) dated 08.07.1987, F.6(23)-PWD(E)/81(S-I) dated 06.11.1987, F.6(13)-PWD(E)/81 dated 04.03.1981, F.1(87)-IFCD(E)/81 dated 02.09.1981, F.1(87)-IFCD(E)/81 dated 03.12.1982, F.6(13)-PWD(E)/81(S-I) dated 07.08.1985, F.6(23)-PWD(E)/81(S-I) dated 06.11.1987, F.1(87)-IFCD(E)/81 dated 03.12.1982. Accordingly, in pursuance of the said order of appointment the petitioners have joined to the posts of Draftsman Grade-III under PWD, Government of Tripura and were discharging their duties sincerely with utmost satisfaction of the authority since the time of their joining. The petitioner No.1, Sri Gautam Kumar Saha joined on 13.12.1982, the petitioner No.2, Sri Sajal Datta joined on 13.12.1982, the petitioner No.3, Sri Pradip Kumar Saha joined on 14.12.1982, the petitioner No.4, Sri Pradip Chakraborty joined on 23.09.1981, the petitioner No.5, Sri Ganesh Chandra Sarkar joined on 13.12.1982, the petitioner No.6, Sri Pallab Bhattacharjee joined on 02.09.1981, the petitioner No.7, Sri Arpan Kumar Biswas joined on 06.12.1982, the petitioner No.8, Sri Krishnapada Bhowmik joined on 04.12.1982, the petitioner No.9, Sri Kisalay Shome joined on 07.09.1987, the petitioner No.10, Sri Bidyut Kanti Chowdhury joined on 07.11.1987, the petitioner No.11, Sri Dulal Chandra Bhowmik joined on 06.03.1981, the petitioner No.12, Sri Sujit Kumar Saha joined on 07.09.1981, the petitioner No.13, Sri Samarjit Das joined on 13.12.1982, the petitioner No.14, Sri Haradhan Das joined on 14.08.1985, the petitioner No.15, Sri Amal Choudhury joined on 07.11.1987 and the petitioner No.16, Bishnu Prasad Roy joined on 13.12.1982.

[4] Thereafter, the posts of the petitioners were re-designated as Junior Draftsman w.e.f.01.01.1986 on promulgation of the Tripura State Civil Services (Revised Pay) Rules, 1988 (ROP Rules, 1988 in short) and thus the petitioners were accorded with the pay scale of Rs.1,300-3,220/- w.e.f.01.01.1986. The said re-designation was made pursuant to Entry No.29 (Public Works Department), Sl.No.16 appearing at Page No.105 of the ROP Rules, 1988 whereby the post of Draftsman Grade-III was re-designated as Junior Draftsman. Further, according to the petitioners, in furtherance of the ROP Rules, 1988, the revised scale was brought into force, w.e.f.01.01.1986 and under the ROP Rules, 1988 the post of Surveyor was categorized into 3 grades and re-designated as Senior Surveyor, Surveyor and Junior Surveyor, having the pay scale of Rs.1,700-3,980/-, Rs.1,450-3,710/- & Rs.1,300-3,220/- respectively. According to the petitioners, in compliance of the ROP Rules, 1988 some persons, holding the posts of Surveyor were re-designated as Junior Surveyor and their pay scales were fixed at Rs.1,300-3,220/- which ought to have been revised to Rs.1,450-3,710/- which was meant for the post of Surveyor. On account of such fixation of pay, the said persons, holding the posts of Surveyor, were not only re-designated as Junior Surveyor, but in consequence thereof, they were stepped down to the grade of Junior Surveyor from the grade of Surveyor and their pay scales were fixed at Rs.1,300-3,220/- which was meant for the post of Junior Surveyor.

[5] The petitioners further stated that one Nimai Chandra Das, was initially appointed as Forester, under the Forest Department, Government of Tripura. Thereafter, vide order dated 14.05.1986, issued by the competent authority, said

Nimai Chandra Das was promoted to the post of Surveyor, and he was granted the pay scale of Rs.560-1,300/-, as the said pay scale was meant for the post of Surveyor. As per ROP Rules, 1988, in addition to the post of Surveyor, 2 other posts were created, i.e., the post of Junior Surveyor and the post of Senior Surveyor, but said Nimai Chandra Das was re-designated as Junior Surveyor, and his pay scale was accordingly fixed at Rs.1,300-3,200/- in terms of the ROP Rules, 1988.

[6] Being aggrieved with the decision of the Department concerned, said Nimai Chandra Das had filed a writ petition vide No.Civil Rule 304 of 1994, before the Hon'ble Gauhati High Court (Agartala Bench), but the same was dismissed. After that, said Nimai Chandra Das preferred an appeal before the Hon'ble Division Bench of the said Hon'ble High Court vide Writ Appeal No.48 of 1999. By judgment and order dated 27.04.2005, the said writ appeal being Writ Appeal No.48 of 1999 was allowed and a direction was given to the respondents to fix the pay scale of said Namai Chandra Das at Rs.1,450-3,710/- as per ROP Rules, 1988 w.e.f. the date on which the ROP Rules came into force. It was further submitted that as per the said ROP Rules, 1988 the post of Surveyor in the Forest Department, Government of Tripura as well as in the PWD, Government of Tripura and in other Departments, were brought under the Graded Scale No.9 and were treated in the manner as indicated hereinabove.

[7] Thereafter, one Sunil Baran Datta, one Amullya Bhattacharjee & one Nihar Ranjan Deb also jointly filed a writ petition bearing No.66 of 2008 before the Hon'ble High Court praying that they should be treated as Surveyors, in the pay scale of Rs.1,450-3,710/-. So, by judgment and order dated

19.08.2013 the said writ petition No.66 of 2008 was allowed directing the respondents therein to treat the said 3 writ petitioners as Surveyor, in the pay scale of Rs.1,450-3,710/- w.e.f. the date on which the ROP Rules, 1988 came into force and according to the petitioners, the said judgment was duly complied with by the Department concerned.

[8] Thereafter, a group of writ petitions were filed before the High Court bearing case number WP(C)637 of 2017 [Rajendra Majumder & 2 Others], WP(C)638 of 2017 [Swapan Chakraborty & 3 Others] & WP(C)639 of 2017 [Surjya Kumar Das & 11 Others] and all the aforesaid writ petitions were allowed and the relief was granted and the said judgments were accordingly complied with.

[9] The petitioners further submitted that most arbitrarily the petitioners accorded the pay scale of Rs.1,300-3,220/- w.e.f. 01.01.1986 instead of Rs.1,450-3,710/- and at a much later stage, w.e.f. the date of their respective dates of completion of 10 years of service, the petitioners were granted the 1st scale up-gradation, in the pay scale of Rs.1,450-3,710/- as per the ROP Rules, 1988, CAS-II benefit on completion of total 17 years of service in the pay scale of Rs.5,550-10,700/- as per the ROP Rules, 1999 & ACP-III benefit on completion of total 25 years of service in the pay scale of Rs.9,570-30,000/- as per the ROP Rules, 2009.

[10] Thereafter, being aggrieved with the decision of the respondent authority and referring the judgment and orders as indicated above, the petitioners submitted representations before the Chief Engineer, PWD, Government of Tripura but the Chief Engineer, PWD, Government of Tripura vide memorandum bearing reference No.F.3(3)-PWD(E)/2020/17718-804 dated

03.03.2021 without assigning any reason, rejected the representations of the petitioners. After that, the present petitioners being aggrieved with the ground of rejection praying for fixation of the pay scale filed a writ petition which was numbered as WP(C)858 of 2021 before this High Court and this High Court by a judgment and order dated 11.04.2023 disposed of the said writ petitions with the following observations :

"5. Heard both sides and perused the evidence on record. The petitioners are directed to file representation before the respondents ventilating the merits of their grievances and their entitlement in the light of the Judgments and Order of this Hon'ble Court which are passed in their favour and all other relevant information in support of their case. On receipt of the same, the respondents shall examine the matter and pass a reasoned order as expeditiously as possible preferably within a period of 3(three) months from the date of receipt of such representation from the petitioners.

6. Further it is needless to observe that the memorandum bearing reference No.F.3(3)-PWD(E)/2020/17718-804 dated 03.03.2021 is an un-reasoned order and this Court feels that the respondents should pass a speaking order with regard to their decision taken and the same should be communicated to the petitioners herein, and the same is directed herein.

7. 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 stand closed."

[11] After that, the petitioners in pursuance of the direction of the High Court submitted one representation conjointly on 01.05.2023 to the respondent authority ventilating the merits of their grievances and seeking their entitlements. But the Deputy Secretary, PWD (R&B), Government of Tripura vide order dated 01.09.2023 [Annexure-15] rejected the representations filed by the petitioners. Hence, the petitioners have filed the writ petition seeking the reliefs as prayed for.

[12] The State-respondents have contested the writ petition by filing counter-affidavit and additional counter-affidavit. In the counter-affidavits respondent authority have denied the total assertions made by the petitioners in the writ

petition and submitted that the petitioners are not entitled to the reliefs as prayed for. In para Nos.11 & 12 the State-respondents further stated as under :

"11. That, in regards to the statement made in paragraph 2.3 to 2.22 of the writ petition it is stated that the petitioners were been appointed to the post of Draftsman Gr.-III in the pay scale of Rs.560-1300/- under TSCS (RP) Rules, 1982 and was re-designated as Junior Draftsman under TSCS(RP) Rules, 1988 (pay scale of Rs.1300-3220/-), likewise the post of Draftsman Gr.-II in the pay scale of Rs.600-1440/- under TSCS(RP) Rules, 1982 was re-designated as Draftsman under TSCS(RP) Rules, 1988 (pay scale of Rs.1450-3710/-)& the post of Draftsman Gr.-I in the pay scale of Rs.650-1595/- under TSCS(RP) Rules, 1982 was re-designated as Senior Draftsman under TSCS(RP) Rules, 1988 (pay scale of Rs.1700-3980/-). Further, the petitioners have been correctly placed in the post of Junior Draftsman in the light of TSCS(RP) Rules, 1988. It may be stated that the petitioners who have joined in the scale of pay of Rs.560-1300/- in the light of TSCS(RP) Rules, 1982" and has been revised to the scale of pay of Rs.1300-3220/- under Graded Scale No.9 in the light of TSCS(RP) Rules, 1988. So, there is nothing wrong in placing of those petitioners in the hierarchy of Junior Draftsman. The following table shows both rank wise pay scale of the various categories of Draftsman posts under ROP 1982 & ROP 1988 respectively :-

Name of the post	Pay Scale under TSCS(RP)Rules,1982	Name of the post(Re-designated)	Revised pay scale under TSCS(RP)Rules,1988 w.e.f.01/01/1986
Draftsman, Grade-I	Rs.650-1595/-	Senior Draftsman	Rs.1700-3980/-
Draftsman, Grade-II	Rs.600-1440/-	Draftsman	Rs.1450-3710/-
Draftsman, Grade-III	Rs.560-1300/-	Junior Draftsman	Rs.1300-3220/-

On the other hand, there existed only 02(two) categories of posts in Public Works Department in the grade of Senior Surveyor & Surveyor having the scale of pay Rs.600-1440/- & Rs.560-1300/- respectively in the light of TSCS(RP) Rules, 1982. In course of time those two posts were remodeled & during the revision, post of the Senior Surveyor having the scale of pay Rs.600-1440/- was re-designated to the post of Surveyor in the pay scale of Rs.1450-3710/- & post of the Surveyor having the scale of pay of Rs.560-1300/- was re-designated in the post of Junior Surveyor to the pay scale of Rs.1300-3220/- in the light of TSCS(RP) Rules, 1988. All these different categories of posts of Surveyor were clubbed together under graded scale No.9 which may be seen from serial No.16 of Part B, in the light of TSCS(RP) Rules, 1988. The following shows both rank wise pay scale of the various categories of Surveyor posts under ROP 1982 & ROP 1988 respectively :-

Name of the post	Pay Scale under ROP, 1982	Name of the post(Re-designated)	Revised pay scale under ROP, 1988 w.e.f.01/01/1986
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-	-	Senior Surveyor	Rs.1700-3980/-
Senior Surveyor	Rs.600-1440/-	Surveyor	Rs.1450-3710/-
Surveyor	Rs.560-1300/-	Junior Surveyor	Rs.1300-3220/-

The above re-designation of posts was done on the basis of posts and not on the basis of pay scale.

Further, a Division Bench of Hon'ble High Court in Case No.W.A.66 of 2008, has clearly mentioned that a person who is working as a Surveyor prior to the coming into force of the ROP Rules, 1988 cannot be placed in the lower post of Junior Surveyor and must be placed in the post of Surveyor."

The Pay Scale of Rs.1450-3710/- was allowed to those Surveyors who were appointed before publication of TSCS(RP) Rules, 1988. And, accordingly, Department allowed the Pay Scale of Rs.1450-3710/- to those Surveyors.

The petitioners had drawn the pay in the scale of Rs.560-1300/-. However, as per Graded Serial No.9, the scale of Rs.560-1300/- has been revised to Rs.1300-3220/-. In compliance to the same, the petitioners have been allowed the revised pay scale of Rs.1300-3220/- as per Graded Serial No.9.

Copy of the SI.No.16 of Part B of TSCS(RP) Rules, 1988 is annexed as Annexure-R/1.

Copy of the graded scale No.9 of Part C of TSCS(RP) Rules, 1988 is annexed as Annexure-R/2.

12. That, in regards to the statement made in paragraph 2.23 to 2.33 of the writ petitioner, it is stated that irrespective of same pay scale the nature of discharging duties, degrees of responsibilities etc. vested upon to the post of Junior Surveyor & Junior Draftsman are purely different. Hence, both the cases can't be measured in the same scale of reference.

Further, it appears that 02(two) nos. posts of different categories of Surveyor (Surveyor & Senior Surveyor) under TSCS(RP) Rules, 1982 were bifurcated into 03(three) nos. posts of different categories of Surveyor (Junior Surveyor, Surveyor & Senior Surveyor) irrespective of different scale of pay.

Further, 03(three) nos. posts of different categories of Draftsman (Draftsman Grade-I, Draftsman Grade-II & Draftsman Grade-III) under TSCS(RP) Rules, 1982 were re-designated into 03(three) nos. of posts of different categories of Draftsman (Junior Draftsman, Draftsman & Senior Draftsman) irrespective of different scale of pay.

From the above reading, it is clear that scale up gradation of Draftsman, Grade-III {as per TCSC(RP) Rules, 1982} or, Junior Draftsman {re-designated as Junior Draftsman as pre TCSC(RP) Rules, 1988} is not possible as re-designation of posts in the case of Draftsman was done on the basis of posts and not on the basis of pay scale.

Further, it is stated that, the Petitioners were appointed to the post of Draftsman Grade-III and accordingly joined in the Public Works Department in the post of Draftsman Grade-III in the scale of pay of Rs.560-1300/- as per TSCS(RP) Rules, 1982. Under TSCS(RP) Rules, 1982, there were 03(three) categories of posts namely Draftsman Grade-III having the pay scale

of Rs.560-1300/-, Draftsman Grade-II having the pay scale of Rs.600-1440/- and Draftsman Grade-I having the pay scale of Rs.650-1595/-. Thereafter, in the light of TSCS(RP) Rules, 1988 the post of Draftsman were bifurcated into 3 grades and re-designated as Junior Draftsman (earlier Draftsman Grade-III) having the pay scale of Rs.1300-3220/-, Draftsman (earlier Draftsman Grade-II) having the pay scale of Rs.1450-3710/-, Senior Draftsman (earlier Draftsman Grade-I) having the pay scale of Rs.1700-3980/- respectively. Further, under TSCS(RP) Rules, 1988 the connected post related to the field of draftsman under PWD was remodeled. It is further to be stated here that the above re-designations were done on the basis of posts and not on the basis of pay scale. In the instant case, the Petitioners were appointed in the scale of pay of Rs.560-1300/- and they cannot be allowed a higher scale of pay of Rs.1450-3710/- because this pay scale is for those incumbents who held the pay scale of Rs.600-1440/- under TSCS(RP) Rules, 1988. Hence, the claim of the Petitioners would disturb the hierarchical balance in the organizational structure of the Draftsman which would imbalance the functioning of machinery and as such the instant petition filed by the Petitioners are liable to be dismissed. As such it deserves logical consideration that the incumbents with the scale of pay of Rs.560-1300/- cannot be allowed a higher scale of pay of Rs.1450-3710/- because the pay scale of Rs.1450-3710/- is for those incumbents who held the pay scale of Rs.600-1440/- under TSCS(RP) Rules, 1988. Consideration of claim of the Petitioners would disturb the hierarchical balance in the Organizational structure of the Draftsman which would imbalance the functioning of the machinery. Hence, the claim of the Petitioners may not be considered."

Finally, the State-respondents by filing the counter-affidavit prayed for dismissal of this writ petition filed by the present petitioners.

[13] In course of hearing, Mr. Purusuttam Roy Barman, Learned senior counsel appearing on behalf of the petitioners fairly submitted that this present case is covered by the judgment of the Hon'ble Gauhati High Court (Agartala Bench) in Writ Appeal No.48 of 1999 [Sri Nimai Chandra Das versus State of Tripura and Others] dated 27.04.2005, WP(C)No.66 of 2008 [Sri Sunil Baran Datta and Others versus State of Tripura and Others] dated 19.08.2013 and the judgment dated 07.12.2018 in a common judgment in connection with Case No.WP(C)No.637

of 2017, WP(C)No.638 of 2017 and WP(C)No.639 of 2017. Referring those citations Learned senior counsel submitted that the case of the present petitioners are squarely covered by the said judgments and there is no scope to deviate from the principle laid down in the said judgment by the High Court and those judgments have been duly complied with or implemented by the state government and the respective petitioners have got the benefit from the Departments.

[14] Learned senior counsel also referred the memorandum dated 28.04.1990 (Annexure-3) issued by the Finance Department, Government of Tripura and referring the same, Learned senior counsel submitted that the respondent authorities have misinterpreted or misread the said memorandum issued by the Finance Department and refused to provide/allow benefits to the present petitioners who were arbitrarily denied the benefit of the revised pay scale as per ROP Rule, 1988 and urged before this Court that if the said memorandum dated 28.04.1990 of the Finance Department is duly and properly interpreted, in that case, the entire confusion of the Department would clear. But the respondent authorities without giving effect to the said memorandum tried to draw the attention of the Court that the case of the present petitioners are not covered by the principles laid down in the said judgments and urged for allowing this writ petition.

[15] On the other hand, Mr. Mangal Debbarma, Learned Addl. G.A. appearing on behalf of the State-respondents fairly submitted that in those cases the petitioners were appointed as 'Surveyors' not as Draftsman but the present petitioners were appointed/engaged as Draftsman, so, with the strength of the said judgment, the petitioners cannot expect the same benefit to

be entitled in this case. Furthermore, referring the ROP Rules, Learned Addl. G.A. submitted that as per Annexure-8 Sl. No.9 as relied upon by the petitioners it is crystal clear that although the petitioners were initially joined as Draftsman Grade-III which were in the pay scale of Rs.560-1,300/- but the same posts were re-designated as Junior Draftsman w.e.f.01.01.1986 on promulgation of Tripura State Civil Services (Revised Pay) Rules, 1988 and their pay scale were fixed to Rs.1,300-3,220/- and there was no anomaly in it. Furthermore, the citations as referred by the petitioners were meant for the post of Surveyors, not for the post of Draftsman Grade-III and the same cannot be equated with the case of the present petitioners. As such, by invoking the principles of said citations, the present petitioners cannot be entitled to get any benefit in this case. Furthermore, referring the counter-affidavit, Learned Addl. G.A. submitted that re-designation of posts as Draftsman was done on the basis of post but not on the basis of any pay scale. It was also further submitted that the petitioners were appointed in the pay scale of Rs.560-1,300/- as such, they cannot be allowed a higher pay scale of Rs.1,450-3,710/- because this pay scale works for those incumbents who held the initial pay scale of Rs.600-1,440/- under Tripura State Civil Services (Revised Pay) Rules, 1988. Finally, Learned Addl. G.A. submitted that there is no merit in the petition and urged for dismissal of this petition filed by the petitioners with costs.

[16] I have heard arguments of both the sides at length and perused the relevant documents submitted by the petitioners as annexures with the writ petition and also gone through the judgments referred by the petitioners of the Hon'ble Gauhati High Court (Agartala Bench) and also gone through the

judgments passed by the coordinate benches of this High Court. Admittedly, all the aforesaid cases were relating to the post of Surveyors. Now, let us examine whether the principles of the said citations can be applied in this case or not. In this regard, **Hon'ble Gauhati High Court (Agartala Bench) in W.A.No.48 of 1999 in Shri Nimai Chandra Das versus State of Tripura and Others dated 27.04.2005** in para Nos.6, 7, 8 and 9 observed as under :

"6. On noticing the above aspects of the matter, the Learned Single Judge has observed in the impugned judgment to the effect that the post of Surveyor has been re-designated as Junior Surveyor and the scale prescribed for the post of Junior Surveyor being Rs.1300-3320/- which is corresponding revised pay scale of the appellant, he has been correctly designated as a Junior Surveyor. We notice that the conclusion so reached by the learned Single Judge is contrary to the ROP Rules, 1988, inasmuch as the post of Surveyor has not been re-designated as Junior Surveyor. What has been done in the ROP Rules, 1988, is that in addition to the post of Surveyor, two posts have been created, one being junior to the post of Surveyor and the same being designated as Junior Surveyor and the other being senior to the post of Surveyor and the same being designated as Senior Surveyor and the same being designated as Senior Surveyor. Since the appellant was already a Surveyor, he could not have been degraded to the level of Junior Surveyor merely because his pre-revised pay scale was meant for the post of Junior Surveyor. As the effect of granting of the benefit of revised pay scale to a person might make him junior in his grade, the Department of Finance, Government of Tripura, had, in fact, vide its Memorandum No.F.4(6)/FIN(PC)/88(L), dated 28.04.1990 elaborately dealt with the matter and issued the clarification, in this regard, which, we find, runs as follows :

"M E M O R A N D U M

Dated, Agartala, the 28th April, 1990

Subject : Clarification of Tripura State Civil Service (Revised Pay) Rules. 1988- Fixation of Pay.

The undersigned is directed to state that it has come to notice that in the case of appointment to posts with graded scales during the period from 1.1.86 upto the date of publication of the ROP Rules, in some cases employees have been allowed a revised scale which is lower than the scale of the grade in which he is placed by virtue of holding a particular existing scale. For example, an employee who appointed during the period from

1.1.1986 upto the date of publication of the ROP Rules, 1988 in the existing scale of Rs.560-1300/-. This scale in this particular case was placed in the intermediate grade with the up-graded revised scale of Rs.1450-3710/-. But the employee was allowed the revised scale of lowest grade. This was perhaps done in view of the stipulation in Part-C of the rules that no new appointment should be made except in the lowest grade.

It is hereby clarified that this not the correct position. No employee should get a scale lower than the revised scale of the grade in which he falls by virtue of holding a particular existing scale.

The stipulation in Part-C of the ROP Rules, 1988 that no new appointment should be made at any level other than the lowest or no new post should be created except at the lowest grade will apply in the case of appointment/creation after the publication of the ROP Rules, 88 and where the appointment/creation is in the revised scale. This stipulation will not apply where appointment/creation was in the existing scale before publication of the ROP Rules, 1988."

7. From the above memorandum, it is abundantly clear that an employee, who was appointed during the period from 01-01-86 to the date of publication of the ROP Rules, 1988, in the existing pay scale of Rs.560-1300/-, his revised pay scale would be Rs.1450-3710/-. In the case at hand, since the appellant came to be appointed, on promotion, to the post of Surveyor by orde, dated 14.5.1986, and was already granted the pay scale of Rs.500-1300/- before the ROP Rules, 1988, came into force, he could not have been the re-designated as, or brought down to the level of, Junior Surveyor with the scale of pay of Rs.1300-3220/-, In terms of the memorandum, dated 28-4-1990 aforementioned, the appellant ought to have been kept retained and designated as a Surveyor and he ought to have been allowed the pay scale of Rs.1450-3710/-, which has the pay scale meant for the post of Surveyor and which pay scale the appellant had demanded. On careful perusal of the impugned judgment, we notice that the learned Single Judge has not taken Into account at all the Memorandum, dated 28-4-1990, aforementioned and it was, perhaps, as a result of his omission to note the contents of the said Memorandum that the learned Single Judge concluded that the post of Surveyor had been re-designated under the ROP Rules, 1988, as a Junior Surveyor.

8. Because of what have been discussed and pointed out above, we are of the view that the State-respondents/authorities concerned have illegally and unjustifiably not given the benefit of revised pay scale of Rs. 1450-3710/- to the appellant and brought him down to the grade of Junior Surveyor, whereas he ought to have been retained in the grade of Surveyor and he ought to have been given the revised scale of pay meant for the post of Surveyor.

9. For the forgoing reasons, this appeal succeeds and the impugned judgment and order dated 11.5.1999, In Civil Rule No.304 of 1994 is hereby set aside. The letter, dated 5-6-1993, by which

the respondent no.2 has turned down the prayer of the appellant for granting him the pay scale of Rs.1450-3710/- shall also stand set aside and quashed. The respondents/authorities concerned are hereby directed to fix the pay scale of the appellant at Rs.1450-3710/- as per the ROP Rules, 1988, with effect from the date, when the said ROP Rules, 1988, came into force treating the appellant as an incumbent in the post of Surveyor and shall make available accordingly to the appellant the arrears of pay and allowances. The benefits given to the appellant shall remain confined to the case of the appellant only."

The State of Tripura has not challenged the said judgment and the judgment was accordingly complied with.

The coordinate Bench of this High Court in **WP(C)No.66 of 2008 [Shri Sunil Baran Datta and Others versus State of Tripura and Others dated 19.08.2013]** in para Nos.6,7,8 & 9 observed as under :

"6. Admittedly, the petitioners were senior to Nimai Chandra Das. In the writ petition filed by Nimai Chandra Das, it was stated that the private respondents were junior to him. It appears that no notice was issued to the private respondents, who are the present petitioners and the State also did not bring it to the notice of the Court that in fact the present petitioners who were respondent no. 2 to 4 in the petition of Nimai chandra Das were senior to him. It was also not brought to the notice of the Court by the State that these petitioners had not been placed in the pay scale of Rs. 1450-3710.

7. The appeal filed by Nimai Chandra Das was allowed because the State did not disclose all facts to the Court. In the present case, the main stand of the State is that there are only graded pay scales and that since the petitioners have exercised their option to be placed as Junior Surveyors, they cannot be permitted to raise this objection. It is also urged that there is no promotional post but it is only a gradation of the post.

8. I am unable to accept this submission because the petitioners were posted as Surveyors in the year 1979, much before the promulgation of the Rules of 1991. A Division Bench of this Court in appeal no. W.A. 48 of 1999, has clearly held that a person who is working as Surveyor prior to the coming into force of the ROP, Rules, 1988 cannot be placed in the lower post of Junior Surveyor and must be placed in the post of Surveyor. This judgment of the Division Bench is binding on all including this Court. The only other ground available to the State is that the petitioners herein had exercised an option to be placed in the scale of Junior Surveyor. This is true. However, one cannot lose sight of the fact that Nimai Chandra Das who was admittedly junior to the petitioners has been granted this benefit and is drawing salary in the pay scale of Rs. 1450-3710 i.e. much higher than that of his seniors. This

judgment of the Division Bench was never challenged by the State. Having accepted the judgment in Nimai Chandra Das's case now it does not lie in the mouth of the State to urge that persons who are junior to Nimai Chandra Das should be denied the same benefit.

9. In view of the above discussion, the writ petition is allowed. The petitioners are directed to be treated as Surveyors with the date on promulgation of the ROP Rules, 1988 and they be placed in the pay scale of Rs. 1450-3710 for all intense and purposes i.e. for the purpose of fixation of pay, grant of increment, interest, etc. However, as far as actual arrears of pay are concerned, the same shall be paid to the petitioners only w.e.f. 1st February, 2005, i.e. 3 (three) years prior to the date of filing of the writ petition."

The said judgment also has been complied with.

Further, in **WP(C)No.637 of 2017 along with WP(C)No.638 of 2017 and WP(C)No.639 of 2017 [Sri Rajendra Majumder and Others versus State of Tripura and Others dated 07.12.2018]** this High Court in para Nos.10 and 11 observed as under :

"[10] Finally, Mr. Bhattacharjee, learned counsel has submitted that some of the petitioners, particularly the petitioners in W.P.(C) No.638 of 2017 have retired from the service before filing of the writ petition. Thus, an additional direction this court may issue is that their pension payment order be revised and the pension may be determined in terms of the direction to fix their pay in the scale of pay of Rs.1450- 3710/- which has been admittedly revised to Rs.5000-10300/-. Mr. Bhattacharjee, learned counsel has further submitted that the grant of upgraded pay scale for their occupying the post of Surveyor would also be the basis of their Career Advance Scheme [CAS] after the postulated period. If any of the petitioners would have reached the grade of Sr. Surveyor, then the corresponding revised pay scale shall also be entitled to them. Accordingly, their pay should be fixed and wherever required pension should be determined on the basis of the last pay as would be calculated on the basis of the new matrix as indicated above.

[11] Having appreciated the submissions made by the learned counsel appearing for the parties and scrutinized the records placed before this court, this court finds that these petitions are covered by the decision of the Gauhati High Court Nimai Ch. Das (supra). So far the question of laches is concerned, the field is be well governed by the principle laid down in Yogendra Srivastava (supra). Further, those who are appointed as the Surveyor, even after the ROP Rules, 1988 is notified, they will also be entitled to the similar benefit alike the petitioners who wer appointed before 01.01.1986. Thus, all the writ petitions are allowed with the following directions:

The petitioners will be fitted against the post of Surveyor in the Graded Scale No.9, Part-C of the ROP Rules, 1988 and their pay shall be fixed in terms of the fixation rules as provided in ROP Rules, 1988 or as modified subsequently, in the scale of pay of Rs.1450-3710/- and if they are to move to the higher graded scale of the Sr. Surveyor, they will also be entitled to the pay scale of Rs.5000-10300/- and in the event of their having moved to the grade of Sr. Surveyor within the currency of the ROP Rules, 1988, their pay shall be fixed in the scale of pay Rs.1700-3980/-. Regarding this, no dispute has been raised by the petitioners. However, per chance, if any of the petitioners had reached that level, their pay scale by virtue of the operation of the Tripura Civil Services (ROP) Rules, 1999 be raised to the corresponding scale as corollary. Accordingly, their pay shall be determined. However, the petitioners will not be get the financial benefit of the entire arrear. The payment of arrears shall be restricted to 3[three] years preceding from the date of filing of the writ petitions. For purpose of reference, though all the writ petitions were filed on 02.06.2017 and as such, the actual arrear shall be paid from 02.06.2014 and for the period subsequent thereto. So far the petitioners, who have retired from the service are concerned, their last pay be re-determined and their pension be revised accordingly. The arrears of pension be paid from 02.06.2014. Such payment of arrear in terms of this direction shall be made to the petitioners by the respondents within a period of 6[six] months from the date of receipt of the copy of this judgment and order. The petitioners shall file the copy of the order to the respondents.

There shall be no order as to costs.

It is needless to say that the pay scale as directed to be provided hereunder be revised by the subsequent pay revision rules."

This judgment also has been complied with by the state government.

[17] Here in the given case I have gone through the principles of the said judgment and the documents relied upon by the petitioners. It appears to me that the present case of the petitioners is also similar to the case of the petitioners of those cases. Learned senior counsel for the petitioners Mr. Roy Barman in course of hearing referred the memorandum dated 28.04.1990 (Annexure-3) issued by the Finance Department,

Government of Tripura as indicated in the judgment of Nimai Chandra Das (supra). From the contents of the said memorandum dated 28.04.1990, it is crystal clear that the Finance Department by the said memorandum clarified that no employee should get a scale lower than the revised scale of the grade in which he falls by virtue of holding a particular existing scale.

[18] In the case at hand the petitioner No.1, Sri Gautam Kumar Saha joined on 13.12.1982, the petitioner No.2, Sri Sajal Datta joined on 13.12.1982, the petitioner No.3, Sri Pradip Kumar Saha joined on 14.12.1982, the petitioner No.4, Sri Pradip Chakraborty joined on 23.09.1981, the petitioner No.5, Sri Ganesh Chandra Sarkar joined on 13.12.1982, the petitioner No.6, Sri Pallab Bhattacharjee joined on 02.09.1981, the petitioner No.7, Sri Arpan Kumar Biswas joined on 06.12.1982, the petitioner No.8, Sri Krishnapada Bhowmik joined on 04.12.1982, the petitioner No.9, Sri Kisalay Shome joined on 07.09.1987, the petitioner No.10, Sri Bidyut Kanti Chowdhury joined on 07.11.1987, the petitioner No.11, Sri Dulal Chandra Bhowmik joined on 06.03.1981, the petitioner No.12, Sri Sujit Kumar Saha joined on 07.09.1981, the petitioner No.13, Sri Samarjit Das joined on 13.12.1982, the petitioner No.14, Sri Haradhan Das joined on 14.08.1985, the petitioner No.15, Sri Amal Choudhury joined on 07.11.1987 and the petitioner No.16, Bishnu Prasad Roy joined on 13.12.1982 to the post of Draftsman Grade-III i.e. during the period w.e.f.01.01.1986 up to the publication of ROP Rules, 1988 and as such, both the petitioners would be covered by the said ROP Rules of 1988. Now, if we meticulously go through the Entry No.16 of Annexure-2 it is very much clear that the post of Surveyor and

Draftsman Grade-III initially engaged in the pay scale of Rs.560-1,300/- were upgraded to scale No.9 vide Sl.No.9 of Annexure-8 and since the post of Surveyor was given the benefit of pay scale of Rs.1,450-3,710/- by the said judgments, so, taking the advantage of ROP Rules, 1988 the State-respondents cannot deprive the present petitioners from the revised pay scale of Rs.1,450-3,710/- rather they have been allowed the revised pay scale by misinterpreting or misreading the principles laid down in the said judgments and also misinterpreting the memorandum dated 28.04.1990 issued by the Finance Department, Government of Tripura itself.

[19] Learned Addl. G.A. in course of hearing all though took the plea that the present petitioners cannot be equated with the post of 'Surveyor' who have been given the benefits of ROP Rules, 1988 in the pay scale of Rs.1,450-3,710/- in pursuance of the said judgments(supra) but it appears that the Learned Addl. G.A. in course of hearing of argument has failed to misinterpret the principles laid down in the said judgments as well as the memorandum dated 28.04.1990 as indicated above of the Finance Department. Thus, in the considered view of this Court the present petitioners are also entitled to the get the benefit like the case of 'Surveyor' as mentioned earlier because it is the solemn duty of the welfare State to render substantial justice to its employees. Here in the given case, the State of Tripura framed ROP Rules, 1988 and as per (Annexure-R/1) Serial No.16 the posts of Surveyor, Draftsman Grade-III were graded in Scale No.9 and since the posts of Surveyor as per the direction of the Hon'ble High Court given the benefit of revised pay scale of Rs.1,450-3,710/-, so, living on the same status and by the strength of the said Rules, 1988 there is no scope to interfere

with the status of Draftsman Grade-III i.e. the present petitioners in a different manner which in the considered opinion of this Court the respondent authorities arbitrarily did and as such, there cases should be treated like the case of the 'Surveyor' who have already availed the benefits.

[20] In view of the above discussion, the present writ petition is allowed. The writ petitioners are entitled to be treated like the Surveyors with the date on promulgation of the ROP Rules, 1988 and they be placed in the pay scale of Rs.1,450-3,710/- for all purposes i.e. for the purpose of fixation of pay, grant of increment, interest etc. But considering the facts and circumstances of this case, the payment of arrears shall be restricted to 3(three) years preceding from the date of filing this writ petition. Consequently, the impugned orders dated 01.09.2023 (Annexures-15 & 16 respectively) stands set aside/revoked.

With this observation, the writ petition is disposed of.

No order is passed as to costs.

JUDGE

**SABYASACHI
BHATTACHARJEE**

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