

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.132 of 2024

IA No.01/2024 in WA No.132 of 2024

1. The State of Tripura, represented by the Secretary, Public Works Department, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN-799010

2. The Chief Engineer, Public Works Department (R&B), Government of Tripura, Agartala, West Tripura

..... Appellant/Applicant(s);

Versus

Sri Arindam Ghosh, age-57 years, son of Late Gopal Chandra Ghosh, resident of Ramnagar Road No.2, P.O. Ramnagar, P.S. West Agartala, District-West Tripura, PIN-799002

.....Respondent(s).

For Appellant/Applicant(s) : Mr. Karnajit De, Addl. G.A.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

05/05/2025

The impugned order reads as under:

“Heard Mr. Kawsik Nath, learned counsel appearing for the petitioner. Also heard Mr. Kohinoor N. Bhattacharyya, learned G.A appearing for the State-respondents.

While the petitioner was in service as Assistant Engineer on *ad-hoc* basis, a departmental proceeding was initiated against him. After completion of the proceeding, following penalties were imposed:-

“NOW Therefore, after a careful consideration of all aspects in the matter, the Disciplinary Authority is pleased to declare that-

i) The pay of Accused Officers namely Shri Arindam Ghosh, Assistant Engineer and Shri Sudip Sinha, Junior Engineer be reduced to the lower stage in the time scale of pay for a period of 3(three) years with cumulative effect.

ii) The actual financial loss to the Government which work out to Rs.2,85,115/- (Two lakhs eighty five thousand one hundred and fifteen only) be recovered from the Accused Officers, Shri Arindam Ghosh, Assistant Engineer and Shri Sudip Sinha, Junior Engineer equally from their salary.

It is further ordered that the proceeding against Shri Siddhartha Sengupta, Junior Engineer, O/o the SDO, PHE, Sub-Division No.-XVI, Ambasa Dhalai is closed without any prejudiced.

This order will take effect from the date of issue of the order.”

Thereafter, the respondents had issued Office Order No.823 dated 13.03.2012 (Annexure-7 to the writ petition) with some clarifications. It reads as under:-

**“GOVERNMENT OF TRIPURA
OFFICE OF THE EXECUTIVE ENGINEER
DRINKING WATER AND SANITATION DIVISION
AGARTALA-I: TRIPURA(WEST)**

OFFICE ORDER 823

In pursuance to the memorandum of the Principal Secretary to the Govt. of Tripura (Disciplinary Authority) communicated Vide No.F.11-6/GA/AR/2005/2147-2151 dated 8th December 2010 and subsequent clarification communicated vide

No.F.12(7)/PWD(E)-11/2005 dated 20-01-2012 of Deputy Secretary PWD, the pay of Sri Arindam Ghosh, Assistant Engineer of this office is reduced to the lower stage in the time scale of pay for a period of 3(three) years with cumulative effect and fixed at Rs. 27,650/- (Rupees Twenty Seven Thousand Six Hundred Sixty) only w.e.f. 8-12-2010 and on completion of currency of punishment he will earn increment.

Further an amount of Rs. 1,42,558/- (Rupees One lakh forty two thousand five hundred fifty eight) only towards the actual financial loss to the Govt, will be recovered in 36 equal installments @ Rs.3,960/- (Rupees Three Thousand Nine Hundred Sixty) only per month.

The excess amount drawn by Sri Ghosh, AE due to imposition of aforesaid penalties will be recovered on preparation of due drawn statement.

This will take immediate effect.

Sd/-
Executive Engineer,
DWS Division Agartala-1.
Agartala, Tripura(West)

Memo No.F.1E-89/EE/DWS/DIVN/AGT-I/11352-62 Dated, Agartala, the 13-3-12”

It is the grievance of the petitioner that due to pendency of the departmental proceeding, the *ad-hoc* post of the petitioner was not regularized, though he was treated to be promoted to the post of Assistant Engineer on regular basis from the year 2001.

It is submitted by Mr. Nath, learned counsel for the petitioner that though the petitioner was promoted to the post of Assistant Engineer on *ad-hoc* basis, but, he was not regularized to the said post till date. It is further submitted that the petitioner was not provided with financial benefits out of such *ad-hoc* promotion to the post of Assistant Engineer due to non-regularization in the said post.

On the other hand, Mr. Bhattacharyya, learned G.A has submitted that this writ petition may be disposed with a direction upon the respondents to consider the grievance of the petitioner.

Accordingly, the State-respondents are directed to consider the matter in accordance with law regarding regularization of the petitioner with all other consequential benefits commensurate to the post of Assistant Engineer.

It is made clear that the entire process shall be completed within 3(three) months from the date of receipt of the copy of this order.

With the aforesaid orders and directions, the instant writ petition stands disposed.”

The appellants-State being aggrieved thereby has preferred the instant appeal which suffers from a delay of 43 days for condonation of which, IA No.01/2024 has been preferred.

Learned counsel for the appellants submits that the writ petition was decided on the first date at the stage of motion. The stand of the respondents-State could not be brought on record. It is submitted that the factual matrix of the case of the petitioner is different from those in whose favour earlier judgments were rendered; such as in the case of **Sri Rajib Majumder v. The State of Tripura & others** passed in **WP(C) No.223/2016**. Moreover, the writ petitioner was facing a disciplinary enquiry. He was

imposed a penalty of withholding of three increments with cumulative effect which was effective till March, 2015. Therefore, he cannot claim parity with other persons allegedly junior to him whose services have been regularized in the year 2000. The learned Writ Court however, without giving any opportunity to the State-respondents to file Counter Affidavit, disposed of the writ petition with a direction upon them to consider the matter in accordance with law regarding regularization of the petitioner with all other consequential benefits commensurate to the post of Assistant Engineer. It was also observed that the entire process should be completed within 3(three) months from the date of receipt of copy of the order.

Upon perusal of the impugned order, it is but apparent that the learned Writ Court has not entered into the merits of the case of the petitioner or rendered any findings as to his claim for regularization. Since the matter lied at the first instance before the department-State, the learned Writ Court has remitted the matter for the respondent to consider it in accordance with law. In effect any consequential benefits would only ensure once the decision is taken in favour of the writ petitioner. In those circumstances, we do not find any justifiable reason for the appellant to prefer the instant appeal.

Learned counsel for the appellants-State submits that the time period for carrying out the exercise may be suitably extended.

Since we are not interfering in the matter and the writ petitioner is not present, this court is not in a position to accede to the aforesaid prayer. However, it is open for the appellants-State to seek suitable extension of time by making proper application before the learned Writ Court.

The instant appeal is disposed of accordingly. Consequently, the condonation petition [IA No.01/2024] and the stay petition [IA No.02/2024] stand closed.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ



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