

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.23 of 2025

1. Sri. Dhananjay Das, son of Sri Pokan Das, resident of village-Battali, P.O. Battali, P.S. Sonamura, Sub Division-Sonamura, District-Sepahijala, PIN-799115, aged about 32 years.

2. Sri Suklal Debnath, son of Sri Ripan Debnath, resident of Village-Laxmipur, P.O. Barpathari, P.S. Belonia, Sub Division-Belonia, District-South Tripura, PIN-799155, aged about 32 years.

3. Sri Biswajit Debnath, son of Sri Matilal Debnath, resident of Village-Sachiram Bari, P.O. Thakurchara, P.S. Baikhora, Sub Division-Santir Bazar, District-South Tripura, PIN-799141, aged about 33 years.

4. Sri Mitan Das, son of Sri Anil Chandra Das, resident of Village-South Nalchar, P.O. Nalchar, P.S. Melaghar, Sub Division- Sonamura, District-Sepahijala, PIN-799115, aged about 37 years.

5. Sri Hiranya Jamatia, son of Sri Padma Mohan Jamatia, resident of Village-Atharabola, P.O. Manikya, P.S. Killa, Sub Division-Udaipur, District-Gomati, PIN-799114, aged about 42 years.

6. Sri Dipankar Ghosh, son of Sri Adhir Ghosh, resident of Village-Bampur, P.O. Bampur, P.S. Birganj, Sub Division-Amarpur, District-Gomati, PIN-799101, aged about 34 years.

7. Sri Mitan Sutradhar, son of Late Shyamal Sutradhar, resident of Village-Satdubia, P.O. Fatickchara, P.S. Shidai Mohanpur, Sub-Division-Mohanpur, District-West Tripura, PIN-799210, aged about 35 years.

8. Sri Jiban Das, son of Sri Umesh Chandra Das, resident of Village-Bhabanipur, P.O. Bhabanipur, P.S. Jatrapur, Sub Division- Sonamura, District-Sepahijala, PIN-799131, aged about 32 years.

9. Sri Sanjib Kumar Das, son of Sri Kajal Kanti Das, resident of Village-West Dukli, P.O. Dukli, P.S. Amtali, Sub Division-Sadar, District-West Tripura, PIN-799003, aged about 37 years.

10. Sri Subrata Sarkar, son of Sri Sudhir Sarkar, resident of Village-Laxmi Chara, P.O. Laxmi Chara, P.S. Baikhora, Sub Division-Santirbazar, District-South Tripura, PIN-799144, aged about 34 years.

11. Sri Anjan Sarkar, son of Sri Swapan Sarkar, resident of Village-Kalshimura P.O. Kalshimura & P.S. Kalamchowra, Sub Division-Sonamura, District-Sepahijala, PIN-799102, aged about 36 years.

12. Sri Debasis Bhowmik, son of Sri Nirmal Bhowmik, resident of Village-Sonamura Chowmuhani, P.O. & P.S.-R.K. Pur, Sub Division-Udaipur, District-Gomati, PIN-799120, aged about 36 years.

13. Smt. Ankita Deb, wife of Sri Parthapratim Das, resident of Village-Housing Board, Udaipur, P.O. & P.S. R.K. Pur, Sub Division- Udaipur, District-Gomati, PIN-799120, aged about 33 years.

.....Petitioner(s)

Versus

1. The State of Tripura, represented by the Commissioner & Secretary, Education Department, Government of Tripura, having his office at Secretariat Building, PO- Kunjaban, PS- New Capital Complex, District- West Tripura, PIN-799006.

2. The Commissioner & Secretary, Education Department, Government of Tripura, having his office at Secretariat Building, PO- Kunjaban, PS- New Capital Complex, District- West Tripura, PIN-799006.

3. The Commissioner & Secretary, Finance Department, Government of Tripura, having his office at Secretariat Building, PO- Kunjaban, PS- New Capital Complex, District- West Tripura, PIN-799006.

4. The Director of School Education, Education Department, Government of Tripura, having his office at Shiksha Bhavan, Office Lane, PO-Agartala, PS- West Agartala, District- West Tripura.

----Respondent(s)

For Petitioner(s)	:	Mr. Somik Deb, Sr. Adv. Mr. Pannalal Debbarma, Adv.
For Respondent(s)	:	Mr. Mangal Debbarma, Addl. GA
Date of hearing	:	25.04.2025
Date of delivery of Judgment & Order	:	06.05.2025
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

These 13 numbers of petitioners have filed this writ petition seeking the following reliefs:

"i) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, for directing them, to transmit the records, appertaining to this writ petition, lying with them, for

rendering substantive and conscionable justice to the petitioners;

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 issued, for mandating/directing them, to forthwith reckon the past services, rendered by the petitioners, while determining the seniority, regular pay scale, leave encashment, leave salary, gratuity and all other admissible service benefits, including pension, as well as the arrears of salary and allowances, in conformity with the various decisions of this Hon'ble High Court;

iii) Call for the records appertaining to this writ petition;

iv) Costs of and incidental to this writ petition;

v) After hearing the parties, be pleased to make the Rule Absolute in terms of i. & ii. above;

vi) Any other Relief(s) as to this Hon'ble High Court may deem fit and proper;"

2. Heard Learned Senior Counsel, Mr. Somik Deb assisted by Learned Counsel, Mr. Pannalal Debbarma appearing on behalf of the petitioners. Also heard Learned Addl. GA, Mr. Mangal Debbarma appearing on behalf of the State-respondents.

3. Brief facts of the case are as follows:

3.1. The petitioners have obtained Masters Degree in different subjects from the Tripura University on diverse dates. Thereafter, they have completed the course of Bachelor in Education (Special) from the ICFAI University, Agartala. For filling up of some vacant posts of Under-Graduate, Graduate and Post-Graduate Teachers, under the Education Department, Government of Tripura, on monthly fixed pay basis, advertisements were issued by the Education Department, Government of Tripura, seeking respective qualifications requisite therefor and in pursuance of the issuance of the said advertisements, the petitioners became aspirants for appointment to the post of Post Graduate Teacher & Graduate Teacher under the Education Department, Government of Tripura. Thereafter, they submitted requisite applications enclosing all necessary documents.

After that a selection process was initiated, and the present petitioners along with others were duly selected for the post of Post Graduate Teacher & Graduate Teacher under the Directorate of Secondary Education, Government of Tripura. The Director of Secondary Education, Government of Tripura by a Memorandum dated 24.10.2017, offered the temporary post of Post Graduate Teacher & Graduate Teacher under the Education (School) Department, Government of Tripura to the petitioners on fixed pay basis thereby postulating the terms & conditions of their appointments.

3.2. Thereafter, in pursuant to the advertisements, the petitioners participated for selection to the post of Post Graduate Teacher & Graduate Teacher and they had all the requisite qualifications as laid down in the Recruitment Rules, except B.Ed. (Regular) Degree. The petitioners completed the course of B.Ed. (Special) which was recognized by the Rehabilitation Council of India. However, the petitioners participated in the selection process and as such, they were selected in the post of Post-Graduate & Graduate Teacher, but at the time of scrutiny of their certificates they were informed that for appointment to the post of Post Graduate Teacher & Graduate Teacher, B.Ed. (Regular) is an essential requirement and since the petitioners are the holders of B.Ed. (Special) Degree, as such, they were ineligible for the said post.

3.3. Being aggrieved, the petitioners filed writ petitions bearing WP(C) No.1050 of 2017 along with other connected writ petitions praying for treating the degree of B.Ed. (Special) as equivalent to B.Ed. (Regular), and thereafter, to consider the petitioners as eligible

candidates for the post of Post-Graduate Teachers & Graduate Teachers. However, at the initial stage, when the matter came up for hearing, the Hon'ble High Court directed that the appointments made, if any, shall be subjected to outcome of the writ petitions and after that, vide judgment & order dated 19.12.2018, the writ petitions were dismissed by this Court.

3.4. The petitioners applied for issuance of 'No-Objection Certificates' for pursuing the course of B.Ed. (Regular) in Open and Distance Learning Mode from ICFAI University, and accordingly, the Department by issuing various memorandum accorded 'No-Objection Certificates' in favour of the petitioners permitting them to get admission in B.Ed. (Regular) Course.

3.5. Thereafter, the petitioners filed a Review petition before this High Court bearing Rev. Pet. No.23 of 2019, praying for reviewing the judgment & order dated 19.12.2018 passed in the aforesaid case alleging *inter alia* that by this time the Department had issued 'No Objection Certificate' in favour of the petitioners to pursue B.Ed. (Regular) Course through Open Distance Mode as in-service candidates. Accordingly, vide order dated 21.05.2019, considering the prayers of the petitioners, this Court granted liberty to the petitioners to approach the respondents who shall consider & decide the representation of the petitioners in accordance with law.

3.6. The petitioners made representation to the Principal Secretary, School Education Department, Government of Tripura communicating the order dated 21.05.2019. Meanwhile, the petitioners completed B.Ed. (Regular) Course of two years duration. In the respective Service Book of the petitioners it was also noted that

in pursuance of the 'No Objection Certificate', the petitioners have completed B.Ed. Course in ODL mode under the ICFAI University. It is the case of the petitioners that in pursuance of Article 309 of the Constitution of India by a Notification dated 15.03.2022, Recruitment Rules for the post of Special Educator was promulgated and Clause 7 of the Schedule of the said Rules postulated the essential qualifications requisite for appointment by way of direct recruitment(Annexure-8).

3.7. Meanwhile, the Member Secretary, Education (School) Department, Government of Tripura issued a Notification dated 11.04.2022, whereby applications were invited from Indian Nationals having permanent residents in Tripura for selection of candidates for recruitment to the post of "Special Educators", through "Selection Test for Special Educator (STSE)-2022". Clause 1 of the said advertisement postulated the essential minimum qualifications requisite for appointment to the said post. According to the petitioners, even though requests were made for determination of the fact that B.Ed. (Special) is equivalent to B.Ed. (Regular), the matter was requested to be placed before the Equivalence Committee, but the same was not placed.

3.8. After that, the petitioners again applied for issuance of 'No Objection Certificate' to participate through Selection Test for Special Educator (STSE), and accordingly, the Additional Director, Directorate of Secondary Education, Government of Tripura issued Memorandum and allowed 'No Objection Certificate' in favour of all the petitioners by memorandum dated 08.08.2022(Annexure-10).

3.9. Consequent thereto, the petitioners participated in the Selection Test for Special Educator (STSE) and all of them emerged out successful. The Director of Secondary Education, Government of Tripura issued Memorandum, thereby appointing the petitioners to the post of Special Educator, Group C under the Education (School) Department, Government of Tripura, on a fixed monthly pay of Rs.20,475/-(Annexure-11). After that, the petitioners submitted prayers for accepting their respective technical resignations and upon due consideration, the Director of Secondary Education, Government of Tripura by issuing various Memorandum, accepted the Technical Resignations tendered by the petitioners(Annexure-12).

3.10. Thereafter, the petitioners submitted their respective Joining Reports to the Head of the Office & DDO, Padmapur H.S. School, Dharmanagar, North Tripura for joining to the post of Special Educator(Annexure-13).

3.11. The petitioners, thereafter, prayed for grant of regular pay scale on completion of 5(five) years of service and accordingly, they submitted representations to the Director, Directorate of Secondary Education, Government of Tripura(Annexure-14). The Director of Secondary Education, Government of Tripura by memo dated 28.07.2023, informed the petitioners that their previous appointments cannot be counted for the purpose of past service benefits(Annexure-15).

The petitioners referred to a judgment & order (Oral) dated 09.08.2023 passed by this High Court in WP(C) No.11 of

2023 whereby the selection of Sri Johnson Tripura, one of the writ petitioners in WP(C) No.1050 of 2017 and other connected writ petitions was assailed *inter alia* on the ground that at the time of initial entry into the service he did not have the requisite qualification, i.e., B.Ed. (Regular) and that he had possessed B.Ed. (Special), and any subsequent acquisition of B.Ed. would not cure the initial defect in the selection. However, while deciding WP(C) No.11 of 2023, the said contention was repulsed by this Court holding that pursuing of B.Ed. (Regular) upon permission granted by the employer, no fault can be found with the qualification and his selection was justified(Annexure-16).

3.12. In pursuance of Memorandum dated 28.07.2023 (Annexure-15), the petitioners submitted a reply dated 17.08.2023 to the Director of Secondary Education, Government of Tripura, stating *inter alia* that even though at the time of their initial appointments they were holding the degree of B.Ed. (Special), but subsequently, after obtaining 'No Objection Certificate' they completed the 2(two) years of B.Ed. (Regular) course which was duly entered into their Service Books. As such, the petitioners are entitled to get the relief as admissible to the post of Graduate Teachers under the Education Department. Even after passing of the judgment & order dated 19.12.2018(Annexure-3) till the date of the issuance of the Memorandum dated 28.07.2023(Annexure-15) the petitioners were allowed to continue their service, and as such, applying the principle of legitimate expectation, the said Memorandum dated 28.07.2023(Annexure-15) according to

petitioners, cannot be sustained. Reply dated 17.08.2023 is annexed as Annexure-17. After such detailed reply submitted by each of the petitioners to the respective Show Cause Notices, no action was taken. Hence the petitioners have filed the present writ petition seeking the reliefs as stated above.

4. The State-respondents have contested the case by filing their counter affidavit and finally by the counter affidavit prayed for dismissal of this writ petition. In para Nos.3, 5, 6, 7, 8 and 9, the State-respondents have asserted the following facts:

"3. That, in reply to para 1 to 2.3.1 of the writ petition, I say that the Directorate of Secondary Education had issued Offer of Appointment to the eligible candidates for the post of Graduate Teacher on a fixed monthly pay of Rs. 17925/- and thereafter issued posting order vide Memorandum dated 16.11.2017. In the said Memorandum it was categorically mentioned that the appointment is further subject to final outcome of the Writ Petition lying in the Hon'ble High Court of Tripura regarding B.Ed Special Education against the selected candidates who did not possess general B.Ed during selection.

5. That, in reply to para 2.5 of the writ petition, I say that in the instant petition, the Petitioners have referred a Writ Petition being number W.P.(C)1050 of 2017 which was disposed by Judgment & Order dated 19.12.2018 wherein the Hon'ble Court has observed as under :-

"56. We reiterate that mere higher qualification would not be a reason to allow the petitioners to continue for the same is with a different object and purpose not sought to be achieved in terms of the present legislation.

57. Further, what is required to be seen are the conditions prescribed at the time of issuance of the advertisement and not the subsequent decision, if any, taken by the government, modifying the conditions which the petitioners fulfil well that is for future and not for the past.

58. The decision in Social Jurist (supra) is also of no consequence for it only highlights the need for taking all measures ensuring full education, in a holistic manner, of all children.

59. Having observed thus, the present writ petitions being devoid of merit, stand dismissed."

The copy of the Judgment & Order dated 19.12.2018 is already annexed as Annexure-3 by the Petitioner to the Writ Petition.

6. That, in reply to para 2.6 to 2.10 of the writ petition, I say that the Petitioners had filed a review petition being number REV.PET. No.23/2019 before this Hon'ble Court and disposed by an Order dated 21.05.2019 as under:-

"The prayer being innocuous, limited in nature, is not opposed.

As such, as prayed for, the present petition is disposed of reserving liberty to the petitioner to approach the respondents, who shall consider and decide the petitioner's representation expeditiously in accordance with law.

It shall be open to the petitioner to approach the Court for assailing the order, if so required and desired on the same and subsequent cause of action, in accordance with law."

The copy of this order dated 21.05.2019 is already annexed by the Petitioner as Annexure-5 to the Writ Petition.

7. That, in reply to para 2.11 to 2.15 of the writ petition, I say that on recommendation of the Teachers' Recruitment Board Tripura (TRBT), 88 eligible candidates were appointed to the post of Special Educator on fixed monthly pay Rs. 20475/- having essential minimum qualification Graduation along with B.Ed. in Special Education.

8. That, in reply to para 2.12 to 2.19 of the writ petition, I say that the Director of Secondary Education, Tripura issued a Memorandum vide No. F.1(1-43)SE/E(NG)/2018(L-9) dated 28.07.2023 (page 321 to the writ petition) wherein the following has laid down:-

"Whereas Sri Debasish Bhowmik, at present hold the post of Special Educator under the Directorate of Secondary Education and posted at Bharat Ratna Atal Behari Vajpayee Charilam H.S. School, Sepahijala District Tripura did not have the requisite professional qualification (B. Ed.) as per the advertisement of the Teachers' Recruitment Board, Tripura and the relevant Recruitment Rules instead he/she had B. Ed. in Special Education which is not recognized by the NCTE for appointment to the post of Graduate Teacher/ Post Graduate Teacher.

And whereas despite Sri Debasish Bhowmik and a group of similarly situated candidates did not fulfil the eligibility criteria for recruitment to the post of GT/ PGT, the

incumbent concerned applied for the Selection Test for GT (STGT)/the Selection Test for PGT (STPGT) as advertised by the TRBT.

And whereas knowing the fact of ineligibility for appointment to the post of GT/PGT, they approached the Hon'ble High Court of Tripura for considering B. Ed in Special Education for appointment to the post of GT/PGT.

And whereas all the candidates having B. Ed. in Special Education were allowed to participate in the selection process in compliance with the interim Order dated 28.09.2016 wherein it had been directed: "In the interim, it is directed that the petitioner shall be allowed to appear in the selection process for the post of Graduate teacher pursuant to the advertisement dated 09.09.2016, but the result shall not be declared in so far as the petitioner is concerned.

And whereas after the selection test, the incumbent concerned having B. Ed. in Special Education was allowed to participate in the verification exercise conducted by the TRBT in compliance with the direction of the Hon'ble High Court dated 19.04.2017, wherein it had been directed: "Since the writ petition cannot be disposed of as of now due to the pendency of some other analogous matters, we direct the respondent authorities to allow the petitioner to take part in the verification exercise to be held tomorrow. The result of the verification exercise will be subject to the outcome of this writ petition."

And whereas in an interim order dated 23.08.2017, it was directed by the Hon'ble High Court of Tripura:

"On comparative reading of Annexure-10-A and Annexure-10-B to the writ petition, we are satisfied that the petitioner has made out a prima facie case. Consequently, as in our order dated 06.06.2017 passed in WP(C) No.520 of 2017, any appointment made to the post of Post Graduate Teacher (in Political Science subject) under the Education (School) Department, Government of Tripura shall be subject to the outcome of the writ petition."

And whereas in compliance with the Judgment & Order dated 23.08.2017, all the candidates having B.Ed. in Special Education and came in the merit position in the concerned Selection Test were issued offers of appointment as per the recommendation of the TRBT and subsequently, such candidates were appointed to the post of PGT/GT under this Directorate stipulating a condition that their appointment shall be subject to the outcome of the Writ Petition lying in the Hon'ble Court bearing No. W.P. (C) 1138 of 2016 and other analogues Writ

Petitions regarding B.Ed. (Special Education). Accordingly, Sri Debasish Bhowmik joined to the post of GT Graduate Teacher (Secondary) 18.11.2017.

And whereas the case bearing No. W.P. (C) No.1138 of 2016 regarding the B.Ed. (Special Education) filed by Smt. Sudipa Saha and other Vs the State of Tripura and 71 other analogues writ petition were dismissed by the Hon'ble High Court of Tripura on 19.02.2019 with the following observation.

"Having observed thus, the present writ petition being devoid of merit, stand dismissed".

And whereas the Law Department, Government of Tripura in regard to the cancellation of the appointments of the Teachers having B.Ed. (Special Education) opined their views as under:

"Thus, the appointments given to those PGTs & GTS holding B.Ed. (Special Education) have no leg to stand after this judgment is pronounced by the Hon'ble High Court. Obviously, as a consequence, their appointments have to be cancelled. Regarding those candidates who have been given offer of appointment, but not issued with appointment/joining letter, may also be cancelled."

And

"In the line of the Judgment pronounced by the High Court, the Department may not get any alternative opinion but to issue harsh order cancelling appointments."

And whereas, Sri Debasish Bhowmik was again appointed to the post of Special Educator under the Directorate of Secondary Education, Tripura in the year 2022 after tendering technical resignation from their previous post of GT/PGT having B.Ed in Special Education and appointed in the year 2017. He joined to the post of Special Educator on 20.12.2022.

Now, therefore, in compliance with the Judgment and order of the Hon'ble High Court, Tripura and in view of the aforesaid legal advice, Sri Debasish Bhowmik, Special Educator is hereby asked to explain as to why their previous appointment to the post of Graduate Teacher (Secondary)/ Post Graduate Teacher having B.Ed. in Special Education appointed in the year 2017 under the Directorate of Secondary Education will not be cancelled and as to why the previous service rendered by him/her will not be treated as eligible for counting of past service benefits.

Sri Debasish Bhowmik, Special Educator, Bharat Ratna Atal Behari Vajpayee Charilam H.S. School, Sepahijala District Tripura should submit his/her reply within 10 (ten) days from the date of receipt of this memo. Otherwise, the decision will be taken exparte.

9. That, in reply to para 2.20 to 2.22 of the writ petition, I say that the W.P.(C) No. 11 of 2023 was dismissed by the Hon'ble High Court of Tripura vide Judgment and Order dated 08.09.2023 wherein the Hon'ble Court has made some baservations that :-

"3. Respondent No.4 has pursued the B.Ed. (Regular) upon permission granted by the employer and has also acquired that qualification. Later on, he approached this Court in WP(C) No.87 of 2023 with a prayer for granting regular scale of pay upon completion of 5 years of service. The learned Writ Court vide order dated 10.02.2023 directed the respondents to consider his representation. Petitioner herein has however, approached this Court in the year 2023 after 5 years of the appointment. The journey of litigation on the issue of qualification of B.Ed. (Special Education) is the ground taken for excusing her for the delay in approaching this Court. But delay apart, now from the averments and documents on record, it is apparent that following the settled principles in case of such nature, the petitioner being the youngest amongst 5(five) candidates in UR category was not appointed though all of them had same 91 marks. She appears to have remained silent on her grievance for a period of 5 years where after she has approached this Court in the year 2023. It is not a case of the petitioner that anyone having lesser marks than the petitioner has been appointed in the same exercise in the subject of History in UR category.

4. The second plea raised by the petitioner vis-à-vis respondent No.4 is also not acceptable for the reason that the services of the respondent No.4 and such other candidates who possessed the educational qualification of B.Ed. (Special Education) on the cut-off date of advertisement were protected by virtue of the Division Bench judgment of this Court rendered on 19.12.2018 in the case of Smt. Sudipa Saha (supra). The respondent No.4 seems to have acquired the qualification of B.Ed. (Regular) after permission from the employer during his service. At this stage, it is, therefore, not open to question the eligibility criteria of the respondent No.4 for the purposes of annulment of his appointment and allow the petitioner to be accommodated on the said post.

5. Mr. Debalay Bhattacharya, learned Government Advocate appearing for the respondents-State, has also informed that beyond the select list of 87, unfilled vacancies out of total 123 vacancies for the subject of History have been carried to subsequent recruitment exercise. In that case, the plea of the petitioner to consider herself for the unfilled vacancies also

cannot be entertained at this length of time.

6. As such, this Court does not find any merit in the writ petition which is accordingly dismissed."

Further, I say that the State Respondents have carefully examined of the grievance of petitioners and they were asked to submit their replies to the Directorate with appropriate documents in support of their claim with reference Memo dated 28.07.2023 issued by the Directorate. Thereafter, the matter referred to the Government for consideration of their claim which is under examination and decision."

5. At the time of hearing, Learned Senior Counsel has drawn the attention of this Court that the case of the present petitioners is covered by an order of Hon'ble Supreme Court of India bearing WP(C) No.132 of 2016 and in the said order, Hon'ble the Apex Court have discussed elaborately regarding the appointment of Special Teachers. As such, the said order is very much relevant for decision of the present case. Learned Senior Counsel in support of his submission further submitted that all the petitioners of this case have/had requisite qualifications for which they were appointed but, later on, it was informed to them that for selection to the post of Post Graduate Teacher and Graduate Teacher, B.Ed. (Regular) was essential. The petitioners were holding the degree of B.Ed. (Special) and as such, they obtained 'No Objection Certificate' from the Department, and thereafter, they completed the 2(two) years course of B.Ed. (Regular), and the said fact has been duly entered in their Service Book. According to Learned Senior Counsel, the petitioners are entitled to regular pay scale with effect from the respective dates on which they have completed their 5(five) years of service.

5.1. Learned Senior Counsel further submitted that initially the petitioners were selected to the post of Post Graduate Teachers & Graduate Teachers, but after scrutiny of the certificates of the petitioners, the respondents came to the conclusion that degree of B.Ed. (Special) holders are not eligible for the said posts, whereas as per the Recruitment Rules & the advertisement, the petitioners were covered by the eligibility criteria. It was further submitted that in spite of that deficiency, the petitioners pursued B.Ed. (Regular) Course and as soon as they obtained the B.Ed. (Regular) certificate/professionals qualification, their deficiency stood removed and such removal of deficiency must relate back to the respective dates of initial entries of the petitioners. It was also submitted by Learned Senior Counsel that the judgment & order dated 09.08.2023 of this High Court has attained finality as the respondents-State have not challenged the said judgment & order and on the basis of the said judgment & order and the principles therein, the petitioners are entitled to get the benefit of past service for getting the benefit of regularization. Learned Senior Counsel also submitted that after completion of 5(five) years of service, the present petitioners are entitled to the benefits as admissible to other Post Graduate and Graduate Teachers. As such, no action can be taken upon memorandum dated 28.07.2023(Annexure-15). Learned Senior Counsel also submitted that the appointments of the teachers having B.Ed. (Special) were cancelled but after obtaining B.Ed. (Regular) Degree which has been entered in the Service Books of each of the petitioners, they

are entitled for regularization. In addition, Learned Senior Counsel further submitted that although the petitioners did not have the requisite degree at the time of appointments, but they acquired the same after taking 'No Objection Certificate' from the Department and rendered 5(five) years of continuous service and even after passing of the judgment & the order dated 19.12.2018(Annexure-3) till the date of the issuance of memorandum dated 28.07.2023, the petitioners were allowed to continue in their service. As such, Learned Senior Counsel submitted that the same comes under the principle of legitimate expectation but the department is showing unjustified reasons after getting long service from the petitioners. Learned Senior Counsel further submitted that the present petitioners had filed writ petition bearing No.WP(C) No.87 of 2023 before this Court and by order dated 10.02.2023 the writ petition was disposed of with a direction to the petitioners to submit representation and accordingly, representations were submitted but only after presentation of the petition for contempt, the memorandum dated 28.07.2023(Annexure-15) has been issued. Learned Senior Counsel also submitted that the petitioners are serving in the post of Special Educators and as per Recruitment Rules(Annexure-8) and the advertisement(Annexure-9) they had the requisite qualification at the time of initial entry into the service. So, their claim for regularization cannot be faulted with and thus, Learned Senior Counsel urged for allowing the writ petition.

6. On the other hand, Learned Addl. GA, Mr. Mangal Debbarma referring the counter affidavit submitted that the present petitioners are not entitled to get the relief as prayed for and the order of the Hon'ble Apex Court in **Rajneesh Kumar Pandey & Ors. v. Union of India & Ors.** passed in **WP(C) No.132 of 2016** relates to the contractual/ad-hoc employees. As such, the principle of the said order is not applicable to the case of the present petitioners and as such, the petitioners are not entitled to any reliefs in this case.

7. I have heard both the sides at length and perused the documents annexed with the petition and also the citation of the Hon'ble Supreme Court of India referred by both the parties at the time of argument.

8. Admittedly, in this case all the petitioners were initially having B.Ed. (Special) Degree instead of B.Ed. (Regular) and with reference to offer of appointment dated 24.10.2017, all the petitioners joined to the post of Graduate Teacher on different dates i.e. on 17.11.2017, 18.11.2017, 20.11.2017 and 24.11.2017. However, in course of verification of certificates later on it was found that the petitioners did not have the degree of the B.Ed.(Regular) Course. After that, the present petitioners filed writ petitions bearing WP(C) No.1050 of 2017 along with other connected writ petitions before this Court and by a common judgment & order dated 19.12.2018 a Division Bench of this Court dismissed all the writ petitions. Thereafter, one Manik Bhowmik filed a review petition bearing Rev. Pet. No.23 of 2019 which was

also disposed of by order dated 21.05.2019. Thereafter, another review petition bearing Rev. Pet.No.51 of 2019 was filed which was also disposed of by order dated 29.05.2019 with a direction to approach to the respondents. In the meantime, after obtaining 'No Objection Certificate' from the department, the present petitioners pursued B.Ed. (Regular) Course and accordingly, obtained B.Ed. (Regular) degree from ICFAI University. After obtaining B.Ed. (Regular) degree they again applied for the post of Special Educator against the advertisement dated 11.04.2022 after obtaining 'No Objection Certificate' and were selected later on. Accordingly, their offer of appointment for the post of Special Educator was issued on 23.11.2022 and in pursuance of that offer of appointment all the writ petitioners joined their respective place of posting on 20.12.2022 on fixed pay basis. In the meantime they also obtained 'No Objection Certificate' before applying for the post. It is also on record that when the present petitioners earlier joined to the post of Graduate Teacher, they were also given the appointment on fixed pay basis at the rate of Rs.17,925/- (revised) per month being 75% of basic pay [Level-9 of Tripura State pay matrix, 2017] and subsequently, vide memo dated 23.11.2022 i.e. the offer of appointment, the petitioners were again appointed to the post of Special Educator, Group-C on fixed pay basis at the rate of Rs.20,475/- (revised) per month. The present petitioners have prayed for reckoning the past service rendered by them while determining the seniority, regular pay scale, leave encashment, leave salary, gratuity and all other service benefits including

pension as well as arrears of salary and allowances, etc in conformity with the various decisions of this Court. It is also to be mentioned here that after obtaining the technical resignation, the petitioners applied for the post of Special Educator and after obtaining 'No Objection Certificate' from the department, they also pursued B.Ed. (Regular) which was also entered in their Service Books. According to the petitioners they have completed 5(five) years of continuous service and even continued their service after the passing of judgment & order dated 19.12.2018 till the date of issuance of memorandum dated 28.07.2023.

It is also the case of the petitioners that the respondents-State had never pleaded that the writ petitioners were ineligible for regularization and their services were liable to be terminated, rather the respondents allowed them to continue their service. According to the petitioners, since as per direction of this Court, they obtained 'No Objection Certificate' from the department, so, there is no scope on the part of the respondents-State to deny/refuse the benefit of past service rendered by the petitioners to their respective posts.

9. Hon'ble Supreme Court of India in **Rajneesh Kumar Pandey(supra)** gave certain directions to the Central Government as well as the State Government regarding the appointment of Special Educators and also the method of selection of those Special Educators by forming/constituting screening committee but on perusal of the said order it appears that the said case before the Hon'ble Supreme Court was for contractual/ad-hoc employees. In

the said order, the Hon'ble Supreme Court specifically observed that benefit of pay scale will only be prospective and not retrospective i.e. from the date of their appointment after selection.

10. Here, in the case at hand, both the parties relied upon the same order of the Hon'ble Supreme Court of India. By this time the present petitioners have completed 5(five) years of service.

11. After going through the counter affidavit submitted by the respondents and also upon hearing the submissions made by the Addl. GA appearing on behalf of the respondents-State, it appears that there is no scope to deny the fact of past service rendered by the petitioners but, since the petitioners were initially appointed on fixed pay basis, in the opinion of this Court, the benefit of past service rendered by the petitioners cannot be considered at this stage. Moreover, the petitioners also failed to show B.Ed. (Regular) degree in course of verification of their documents, as such, on the basis of their initial appointment made in the year 2017, the benefits of past service as alleged to be rendered by the petitioners cannot be extended to them who although by this time have obtained B.Ed. (Regular) degree from ICFAI University and got selected against the advertisement dated 11.04.2022 for the post of Special Educator on fixed pay basis. The petitioners cannot be granted the benefits of past service simply on the ground of continuation of their service for more than 5(five) years and also on the ground that their names have been entered in the Service Books. As such, the present petitioners are not entitled to the reliefs as prayed for in this writ petition.

12. In the result, this writ petition filed by the present petitioners bears no merit. Accordingly, the same stands dismissed being devoid of merit.

This writ petition is disposed of accordingly.

JUDGE



Snigdha

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