

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.134 of 2024

Smt. Suchitra Malakar, D/o Lt. Sudhir Malakar, resident of West Pratapgarh,
PO & PS – A. D. Nagar, District – West Tripura, Pin-799003.

.....Appellant(s).

Versus

1. The State of Tripura Represented it's By Principal Secretary, Public Works Department(R&B), Govt. of Tripura, P.O:- Kunjaban, P.S:- New Capital Complex, District:- West Tripura, Pin:- 799006.
2. The Principal Secretary, Public Works Department (R&B), Government of Tripura, P.O;-Kunjaban, P.S :-New Capital Complex, District:-West Tripura, Pin:- 799006.
3. The Chief Engineer, Public Works Department (R & B), Government of Tripura, P.O- Agartala, P.S- West Tripura, District - West Tripura, Pin-799006.
4. The Executive Engineer, Public Works Department(R &B), Government of Tripura, Agartala Division No.I, P.O- Agartala, P.S- West Tripura, Pin-799001. The Principal Secretary, Finance Department, Govt of Tripura, P.O:-Kunjaban, P.S:- New Capital Complex, District:-West Tripura, Pin:-799006.

.....Respondent(s).

For Appellant(s) : Mr. Arijit Bhaumik, Advocate,
Mr. Swarupam Saha, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

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

ORDER

05/11/2025

This Writ Appeal is preferred against the judgment dt. 25.01.2024 of the learned Single Judge refusing to grant minimum of the regular pay scale to a Daily Rated Worker (for short, DRW) in the Public Works Department (R&B), Government of Tripura on the sole ground that she had been appointed illegally without following normal rules of public

employment and holding that she cannot be equated to the employees who had been appointed in terms of Article 14 & 16 of the Constitution of India.

2. We are surprised that though the decision of the Supreme Court in the case of *State of Punjab and others Versus Jagjit Singh and others*¹ was cited by the counsel for the appellant in paragraph-13 of the Writ Petition, the learned Single Judge ignored the same though it is binding on him which he could not have done.

3. In the said judgment the Supreme Court held at paragraph no.60 as under:

“60. Having traversed the legal parameters with reference to the application of the principle of "equal pay for equal work", in relation to temporary employees (daily-wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the employees concerned (before this Court), were rendering similar duties and responsibilities as were being discharged by regular employees holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of "equal pay for equal work" summarised by us in para 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals were appointed against posts which were also available in the regular cadre/establishment. It was also accepted that during the course of their employment, the temporary employees concerned were being randomly deputed to discharge duties and responsibilities which at some point in time were assigned to regular employees. Likewise, regular employees holding substantive posts were also posted to discharge the same work which was assigned to temporary employees from time to time. There is,

¹ (2017) 1 SCC 148

therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity on any of the principles summarised by us in para 42 hereinabove. There can be no doubt, that the principle of "equal pay for equal work" would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages on a par with the minimum of the pay scale of regularly engaged government employees holding the same post."

4. In para 42 it further held that persons discharging identical duties, cannot be treated differently, in the matter of their pay and that the principle for 'equal pay for equal work' applies to cases of unequal scales of pay. It reiterated that persons performing the same or similar functions, duties and responsibilities, normally should get the same pay scale. For parity in pay-scales, under the principle of 'equal pay for equal work', equation in the nature of duties, is of paramount importance.

5. In the instant case, in the counter-affidavit filed before the learned Single Judge by the respondents, nowhere it is contended by the respondents that the duties performed by the appellant are different from the duties of a regularly appointed Group-D staff. Merely because they are not engaged against any sanctioned post, the respondents cannot deny parity in terms of pay at par with the post under Group-D.

6. Therefore, the instant Writ Appeal is allowed. The judgment of the learned Single Judge is set aside. The respondents are directed to pay the appellant from the date of her initial engagement as a DRW, wages at the

minimum of pay scale (at the lowest grade in the regular pay scale extended to regular employees holding the Group-D post) and continue to do so till she demits office. The arrears of said payment shall be made within three months from today. No costs.

7. Pending application(s), if any, shall stand disposed of.

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



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