

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.790 of 2023

Rajib Majumder, Age 36 years,
S/o Sri Sudhir Ranjan Majumder,
Resident of village & P.O.- Bijohnagar,
Sub-Division- Sabroom,
District- South Tripura, PIN 799145.

.....**Petitioner(s)**

- Versus -

1. The State of Tripura,

To be represented by the Secretary,
Home Department, Govt. of Tripura,
New Secretariat Building, New Capital Complex,
Kunjaban, Agartala, West Tripura, PIN 799010.

2. The Director, State Forensic Science Laboratory,

Govt. of Tripura, Narsingarh, Agartala, West Tripura.

3. The Secretary, Department of Finance, Govt. of Tripura,

New Secretariat Building, New Capital Complex, Kunjaban,
Agartala, West Tripura, PIN 799010.

..... **Respondent(s)**

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. S. Bhattacharjee, Advocate. Mr. Kawsik Nath, Advocate.
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For the Respondent(s)	:	Mr. S.M. Chakraborty, Adv. Gen. Mr. D. Sarma, Addl. G.A.
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Date of hearing and delivery : **5th March, 2025.**
of Judgment & Order

Whether fit for reporting : **NO.**

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (Oral)

Heard Mr. P. Roy Barman, learned senior counsel appearing
for the petitioner and Mr. S.M. Chakraborty, learned Advocate General
assisted by Mr. D. Sarma, learned Addl. G.A. appearing for the State-
respondents.

2. By an additional affidavit submitted by the petitioner, a copy of memorandum dated 17.12.2024, issued by the Finance Department, Govt. of Tripura is placed on record.

3. The case of the petitioner is that initially the petitioner was appointed as Laboratory Attendant at Tripura State Forensic Science Laboratory, Narsingarh on fixed pay basis vide memorandum dated 25.01.2011 (Annexure-1 to the writ petition) and during such appointment he was granted permission vide letter dated 11.02.2013 (Annexure-2 to the writ petition) to apply for the post of Laboratory Assistant at said Tripura State Forensic Science Laboratory. He accordingly applied for that post and was also selected and thereafter, offer of appointment was also issued in his favour vide memorandum dated 24.06.2013 (Annexure-3 to the writ petition) and since then he is working there in said post.

4. Now, it is the grievance of the petitioner that his past service of about 2 years as Laboratory Attendant on fixed pay basis w.e.f. 21.03.2011 to 30.06.2013, was not taken into consideration for allowing him regular pay scale on completion of 5 years of service. With such grievances, the writ petition was filed with the following reliefs:

- "(i) *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to give the benefit of regular pay scale to the Petitioner including the period served by the Petitioner as Laboratory Attendant (Physical Science) at SFSL, Tripura w.e.f. 21.03.2011 to 30.06.2013 and thereafter in the post of Laboratory Assistant (Physical Science) w.e.f. 01.07.2013 to till date with ancillary and consequential, pecuniary and non-pecuniary benefits.*
- (ii) *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the*

Respondents to modify the Office Order, dated, 10.12.2018, issued by the Director, TSFSL, Narsingarh, Tripura, wherein the Petitioner was granted regular pay scale w.e.f. 01.07.2018, instead of 21.03.2016.

- (iii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing the letter, dated, 30.09.2015, issued by the Under Secretary, to the Govt. of Tripura, Home Department.*
- (iv) Make the rules absolute.*
- (v) Call for records.*
- (vi) Pass any further order/orders as this Hon'ble High Court considered fit and proper."*

5. Mr. Roy Barman, learned senior counsel submits that now recently the State of Tripura, Finance Department has issued another memorandum dated 17.12.2024 as indicated above and the case of the present petitioner is also covered by the said notification.

6. Mr. Chakraborty, learned Advocate General also submits that the matter may be left to the department to consider the case of the petitioner in terms of above said memorandum dated 17.12.2024.

7. For useful reference, the entire memorandum dated 17.12.2024 is extracted here-in-below:

"GOVERNMENT OF TRIPURA
FINANCE (GENERAL) DEPARTMENT
(ESTABLISHMENT-III)

No.1.10(2)-FIN(G)/2005(P-1)/47 Dated, Agartala, the 17th December, 2024

MEMORANDUM

Subject: *Providing regular pay scale to employees recruited on fixed pay basis in different posts in same / different departments by keeping regular pay scale post in abeyance.*

As per the existing policy vide Finance Department's Memorandum No.F.10(2)-FIN(G)/05/Part-I dated 16th October, 2007, employees who are recruited on fixed pay basis against fixed pay posts created by keeping abeyance regular scale posts and continues to serve for 5 years on fixed pay in the same post without any break in service are allowed for regular pay scale.

2. In partial modification of Finance Department's Memorandum No.F.10(2)-FIN(G)/05/Part-I dated 16th October, 2007, the undersigned is directed to inform that the Government of Tripura has taken a policy decision for considering the benefit of regular pay scale to the employees who have served the State Government for cumulative period of 5(five) years as fixed pay posts created on fixed pay basis by keeping regular pay scale post in abeyance in different posts in same or different departments.

3. The above instruction is subject to fulfilment of the following conditions:

- i) Employees who have been recruited in all the posts against the fixed pay posts created on fixed pay basis by keeping abeyance the regular scale posts.
- ii) Employees should have obtained 'No Objection Certificate' from concerned department before appearing for the Selection Test for all the subsequent post(s) after first job.
- iii) Employees who have joined the present posts without any break in service between two subsequent posts.

4. All Departments are requested to take action immediately for implementation of the same, with the prior concurrence from Finance Department against each of such case.

Sd/-
Under Secretary,
Government of Tripura."

8. It is found from the memorandum, at Paragraph No.2 that the Government has taken a policy decision for providing the benefit of regular pay scale to the employees who have served the State Government for a cumulative period of 5(five) years as fixed pay posts created on fixed pay basis by keeping regular pay scale post in abeyance in different posts in the same or different departments. According to the petitioner he was given the appointment in both the post on fixed pay basis and therefore as per above said memorandum his service rendered in the previous post is also required to be counted for the purpose of giving regular pay scale in as much as he fulfills the above said all the criterion.

9. The Court has given due consideration to submission of learned counsel of both parties and has also taken note of all the materials placed before the Court. It appears to the Court that it would be proper course, if without giving any opinion to the merit of the case, the matter is left to the respondents to consider the case of the petitioner in the light of above said memorandum dated 17.12.2024.

10. In view of above, the writ petition is disposed of with the direction to the respondents to examine and consider the case of the petitioner in the light of above said memorandum dated 17.12.2024, after a fresh representation is submitted by the petitioner with the relevant documents to the respondent No.2 through proper channel and the respondent No.2 shall dispose of such representation, if so submitted, within 2(two) months on receipt of the representation with a reasoned order. Needless to say, it will be open to the petitioner to approach proper forum again if grievances of the petitioner still persists.

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

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

JUDGE

**SATABDI
DUTTA** Digitally signed by
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