

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.74 of 2025

1. Sri Zonunfela Rawihte, S/O. R. Sangkhuma, R/O. Sabual, Jampui Hill, P.O.- Vanghmun, District-North Tripura, PIN-799269, Age-41 years.
2. Sri Jitendra Tripura, S/O. Reban Tripura, R/O. Chittamara, Belonia, P.O.- Chittamara, District-South Tripura, PIN-799155, Age-32 years.
3. Sri Abhijit Roy, S/O. Sri Manoranjan Roy, R/O. Village-Kamalpur, Noagaon Road, Near Noagaon High School, P.O.-Noagaon, District-Dhalai, Tripura, PIN-799285, Age-40 years.
4. Sri Badal Pal, S/O. Khagendra Chandra Pal, R/O. Near Kupilong Bazar, Village-West Kupilong, P.S.-Killa, P.O.-Kupilong Bazar, District-Gomati Tripura, PIN-799114, Age-51 years.

..... Appellant(s).

V E R S U S

1. The State of Tripura, to be represented by the Principal Secretary, School Education Department, Government of Tripura, New Secretariat Complex, New Capital Complex, P.O.-Kunjaban, P.S.-New Capital Complex, Agartala, District-West Tripura, Pin-799006.
2. The Director of Secondary Education, Govt. of Tripura, School Education Department, Government of Tripura, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, Pin-799001.
3. The Director of Elementary Education, Govt. of Tripura, School Education Department, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, Pin-799001.
4. The Principal Secretary, Finance Department, Government of Tripura, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura, Pin-799006.
5. The Principal Secretary, General Administration (P&T) Department, Government of Tripura, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura, Pin-799006.

.....Respondent(s).

W.A. No.75 of 2025

1. Sri Biplab Saha, S/O. Sri Phani Bhushan Saha, R/O. Vill. North Charilam, P.O.-North Charilam, P.S.-Bishalgarh, District-Sepahijala Tripura, Pin-799103, Age-37 years.
2. Sri Kishore Shil, S/O. Sri Anil Chandra Shil, R/O.Vill. and P.O.-Anandanagar, P.S.-Srinagar, District-West Tripura, Pin-799004, Age-38 years.
3. Sri Maxwell Oliver Debnath, S/O. Sri Alindra Debnath, R/O. Near Dasda Bazar, Laxmi Pur, P.O.-Dasda, P.S.-Kanchanpur, District-North Tripura, Pin-799271, Age-30 years.

4. Sri Amal Das, S/O. Sri Amarendra Das, R/O. Brajendra Nagar, P.O.- Brajendranagar, Dharmanagar, P.S.-Kadamtala, District-North Tripura, Pin-799261, Age-34 years.
5. Sri Swapan Sinha, S/O. Sri Labanya Sinha, R/O. Kherengjuri, P.O.- Kherengjuri, Dharmanagar, P.S.-Churaibari, District-North Tripura, Pin-799262, Age-34 years.
6. Sri Pintu Das, S/O. Sri Falindra Das, R/O. Uttar Deuchara, near water pump, P.O.-Deochara, Dharmanagar, P.S.-Panisagar, District-North Tripura, Pin-799260, Age-37 years.
7. Sri Prasenjit Chakma, S/O. Sri Surdas Chakma, R/O. Korbook, Bhanupara, P.O.-Jatan Bari, P.S.-Natunbazar, District-Gomti Tripura, Pin-799104, Age-33 years.
8. Sri Subal Chanda, S/O. Sri Badal Chanda, R/O. Dasda Laxmipur, P.O.- Dasda, P.S.-Kanchanpur, District-North Tripura, Pin-799271, Age-37 years.
9. Sri Kamal Chowdhury, S/O. Sri Jatindra Chowdhury, Vill and P.O.- Karaichara, P.S.-Pecharthal, District-Unokoti Tripura, Pin-799263, Age-37 years.
10. Sri Rajendra Deb, S/O. Lt. Ranjan Deb, R/O. South Nayapara, Dharmanagar, P.O.-Dharmanagar, P.S.-Dharmanagar, District-North Tripura, Pin-799250, Age-37 years.
11. Sri Bhaskar Bhowmik, S/O. Sri Bhabatosh Bhowmik, R/O. 92 College Road, Ward-7 near RCC Bridge, P.O. & P.S.-Dharmanagar, District-North Tripura, Pin-799250, Age-38 years.

..... Appellant(s).

V E R S U S

1. The State of Tripura, to be represented by the Principal Secretary, School Education Department, Government of Tripura, New Secretariat Complex, New Capital Complex, P.O.-Kunjaban, P.S.-New Capital Complex, Agartala, District-West Tripura, Pin-799006.
2. The Director of Secondary Education, Govt. of Tripura, School Education Department, Government of Tripura, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, Pin-799001.
3. The Director of Elementary Education, Govt. of Tripura, School Education Department, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, Pin-799001.
4. The Principal Secretary, Finance Department, Government of Tripura, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura, Pin-799006.
5. The Principal Secretary, General Administration (P&T) Department, Government of Tripura, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura, Pin-799006.

.....Respondent(s).

For Appellant(s)

: Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,

Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : Mr. S.M. Chakraborty, Advocate General,
Mr. Mangal Debbarma, Addl. G.A.,
Ms. Pinki Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

CAV reserved on : **15.12.2025.**

Judgment delivered on : **08.01.2026.**

Whether fit for reporting : **YES.**

COMMON JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

1) Heard Mr. Purusuttam Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, counsel appearing for the appellants, and Mr. S.M. Chakraborty, learned Advocate General assisted by Mr. Mangal Debbarma, Addl. Government Advocate and Ms. Pinki Chakraborty, counsel appearing for the respondents-State.

2) These two Writ Appeals arise out of a common judgment dt.17.1.2025 of the learned Single Judge in W.P.(C) No.968 of 2022 and W.P.(C) No.68 of 2022.

3) The Teachers Recruitment Board, Tripura, which is under the Education (School) Department of the Govt. of Tripura (respondent no.1) had issued Advertisements dt.27.5.2017 and dt.17.11.2017 for filling up 'permanent' posts of Post Graduate Teachers (for Class XI-XII) and Graduate teachers (for Class IX-X) in various subjects prescribing eligible qualifications through a process of selection.

- 4) The advertisements indicated that they would be paid only a 'fixed pay' of 75% of basic pay level-100 of the Tripura State pay matrix.
- 5) The appellants were found eligible for selection by the Teachers Recruitment Board, Tripura as they possessed the prescribed qualifications and were issued appointment letters as Graduate and Post graduate teachers respectively in 2017-18. Separate notifications were issued by the Board mentioning the persons selected as against each subject.
- 6) Curiously all the appointment letters stated that the appointment is purely on 'temporary' basis for 1 year and will not confer any title to continuation for further period/permanent appointment, that appointment can be terminated at any time by a month's notice given by either side, and the appointing authority can do so without assigning any reason. They also mentioned that the appointees will get only fixed monthly pay.
- 7) All the appellants accepted appointment on the above terms and joined the service of the respondents.

The contentions of appellants

- 8) Appellants contend *inter alia* that:
 - (i) The posts against which they were appointed were sanctioned by the Finance Department of the Government of Tripura (Respondent no.4) and carry a regular pay scale, but they have been appointed on fixed pay basis @ 75% of the minimum of pay scale for the post of Post graduate teacher and Graduate teacher;
 - (ii) Vide Memorandum dt.15.12.2001, the State of Tripura had introduced the system of recruitment of Group C and Group D staff on fixed pay basis by keeping in abeyance the regular Pay Scale for a certain period,

but those employees recruited through the Tripura Public Service Commission were given regular pay scale from the date of appointment;

(iii) A Memorandum dt.16.10.2007 was issued by the State of Tripura stating that such employees who were recruited on fixed pay basis by keeping regular pay scale in abeyance will be provided the regular pay scale on completion of 5 years of service;

(iv) Prior to 2001, there was no such decision of the State Government to appoint Group-C and Group D employees on fixed pay basis;

(v) Appellants had been appointed after formal creation of posts through an open competitive selection process and their appointment cannot be termed illegal or irregular. So the regular pay scale attached to the posts held by the appellants cannot be denied to them;

(vi) The Memorandum dt.16.10.2007 which directed that Group C and group D employees are kept on fixed pay for 5 years is arbitrary and violative of right of appellants to get equal pay for equal work, amounts to exploitation of Group C and Group D employees and is also an unfair employment policy because when they are appointed against regular posts after a process of selection, they cannot be paid fixed pay;

(vii) The Memorandum dt.16.10.2007 is restricting the pay prescribed in Recruitment Rules framed under proviso to Art.309 of the Constitution of India and the latter have to prevail over the said Memorandum;

(viii) The appellants are discharging the same duty during the first 5 years of their service as other Graduate and Post graduate teachers who are on regular pay scale, but despite rendering equal duty in connection with the same post and having same qualification for the post concerned, they have

been kept on fixed pay. This violates the 'right to equal pay for equal work' enshrined in Art.14 and 16 of the Constitution of India.

(ix) The system of appointing on 'fixed' pay has been adopted only for Group-C and D posts and not for Group A and B posts, who are getting regular pay scales from date of initial appointment itself. Thus discrimination is being shown against Group C and D employees vis-à-vis Group A and B employees.

(x) The intent behind the policy to appoint only the Group C and D employees, who are lowest in the hierarchy of employees, on fixed pay is to deny fair and legitimate salary to them and amounts to their exploitation;

(xi) Also in Home Department, employees have been kept out of the policy contained in the Memorandum dt.6.10.2007 and Group C and Group D employees in the said department are getting regular scale of pay.

(xii) The State has a duty, while formulating policies, to minimize the inequalities of income and eliminate inequalities in status, facilities and opportunities, and so both the policies contained in Memorandum dt.15.12.2001 and in Memorandum dt.16.10.2007 are liable to be struck down.

9) Appellants had got issued two legal notices – one dt.30.11.2021 and another dt.30.11.2021 seeking regular pay from the date of initial appointment, but this was rejected on 8.12.2021 by the Director of Secondary Education, Govt. of Tripura (respondent no.2).

10) The appellants therefore prayed for:

(a) quashing the Memorandum dt.15.12.2001 and Memorandum dt.16.10.2007 issued by Secretary, General Administration Department, Govt. of Tripura (respondent no.5); and

(b) for a direction to the respondents to allow regular pay scale to the appellants from the date of their initial appointment along with all service benefits including arrears of financial benefits.

The stand of the respondents

11) The respondents filed counter affidavit contending inter alia :

(i) The appellants had accepted their appointment as Post graduate and Graduate teachers on fixed pay basis without raising any questions;

(ii) The Memorandum dt.15.12.2001 had been issued by the General Administration Department of the State of Tripura with the approval of the Council of Ministers;

(iii) State services falls under Entry 41 of List II of Seventh Schedule to the Constitution of India and legislature has plenary power including power of delegation; and the proviso to Art.309 empowers the Council of Ministers to frame a policy on service matters of State Government employees; and in absence of rules, the State Government is free to issue administrative instructions in relation to recruitment and other conditions of service because any field not covered by Rules framed under the proviso to Art.309 can be covered by executive instructions;

(iv) The Recruitment Rules indicate the extent of the scale of pay and not the formula for determination of pay or the guarantee for grant of a regular pay scale;

(v) The Memorandum dt.15.12.2001 and the Memorandum dt.16.10.2007 together speak of the formula for the determination of pay;

(vi) These executive instructions do not interfere with the pay scale but settle down the formula for determination of pay, and so the subjects of the two are different and there is no cause to equate the same;

(vii) The appointment orders issued to each of the appellants unambiguously mention the formula for determination of pay on joining the post of Post Graduate Teacher/Graduate Teacher and state that they would get 75% of the minimum basic pay of the appropriate pay matrix level and so the appellants are attempting to create a cloud in the mind of this Court;

(viii) The policy decision to allow candidates serving on fixed pay basis with benefit of regular pay scale on completion of 5 years has been finalised after due discussion in the Legislature during the budget declaration of 2006-07 and so does not suffer from any infirmity;

(ix) Appellants cannot compare themselves with Group C and group D employees of other departments such as the Home Department as recruitment rules applicable are different and there is no violation of Art.14 or Art.16 of the Constitution of India.

The judgment of the learned Single Judge

12) In the impugned judgment, the learned Single Judge held that the appellants had participated in the selection process conducted by the Tripura Teacher Recruitment Board having full knowledge that one of the terms and conditions of service is that fixed pay will be paid to the appointees; that the offer of appointment also mentioned that the appointment offered was of a purely temporary post on fixed pay basis; they knew that their services would be regularised after they complete 5 years of service on fixed basis; after they got appointed they had no objection to fixed pay; and after a long period of

time, they are contending that they should get regular pay scale and that their services would be reckoned from their initial appointment.

13) He rejected the plea of discrimination raised by appellants with those appointed through the Tripura Public Service Commission citing *State of West Bengal v. W.B. Minimum Wages Inspectors Association*¹, *State of Bihar v. Bihar Secondary Teachers Struggle Committee, Munger & Others*², *S.C. Chandra . Jharkhand*³, *Asif Hameed v. State of J & K*⁴ and held that grant of pay scales is a purely executive function and the Court should not interfere with the same and must exercise judicial restraint.

14) He observed that the State Government had taken a policy decision to the effect that the unemployed youth are to be appointed in different departments across the State and to fulfil that object, it had taken initiative for the appointment of such unemployed youth on fixed pay basis.

15) He held that the financial stringency of the State Government in creating employment refers to the fiscal constraints or limitations that the Government faces while allocating resources for employment generation programmes; and that this concept involves managing financial resources carefully due to budget deficits, low revenue generation, or competing demands for Government spending. When the State Governments experience financial stringency, their ability to invest in infrastructure projects, support industries, or fund to the recruitment of employees in Government Sector or Public Sector, may be limited.

¹ (2010) 5 SCC 225

² (2019) 18 SCC 301

³ (2007) 8 SCC 279,

⁴ 1989 Supp (2) SCC 364

16) According to him, the fixed pay policy of the State to recruit a large number of unemployed youth typically refers to a structured wage system implemented by the State to ensure that job creation efforts are both effective and sustainable; and this type of policy establishes a pre-determined, stable salary for Government and Public sector employment programmes aimed at absorbing large numbers of unemployed youth into work force.

17) He also held that the Government offered such fixed pay with the option for renewal depending on funding availability after a considerable period, and a fixed pay policy to recruit unemployed youth can be a transformative initiative, providing both immediate employment and pathways for skill building.

18) He held that Courts do not substitute their opinion in the decision of a State Government with regard to policy matters and the Court should refuse to sit as appellate authority or super legislature to weigh the wisdom of legislation or policy decision of the Government unless it runs counter to the mandate of the Constitution quoting *State of Himachal Pradesh v. Himachal Pradesh Nizi Vyavsayik Prishikshan Kendra Sangh*⁵.

19) He therefore upheld the policy of the State Government in appointing teachers on fixed pay basis holding that it is not illegal, arbitrary, discriminatory or violative of Art.14 and 16 of the Constitution of India. He thus dismissed both the Writ Petitions.

20) Challenging the same, these two Writ Appeals have been filed by Appellants.

⁵ (2011) 6 SCC 597

Consideration by the Court

21) The Memorandum dt. 15.12.2001 states:

“GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (PERSONNEL &
TRAINING) DEPARTMENT
No.F.20(3)GA(P&T)/96 Dated, Agartala, the 15th December 2001

MEMORANDUM

Subject: Fixed Pay - Recruitment on-in Group C and D posts.

In order to have reasonable flexibility to recruit eligible candidates on fixed pay basis to posts meant for direct recruitment it has been decided that henceforth appointment to Group-C and D posts which are not required to be filled up by selection through the TPSC, may be made on fixed pay basis. For this purpose posts with fixed pay should be created by keeping the posts in time scale in abeyance with the concurrence of GA (AR)/ PCD/ FD. The quantum of fixed pay in respect of such posts will be fixed with prior approval of the Finance Department.

2. *It has also been decided that wherever interview has been completed or selection has been made for posts having scale of pay, the selected candidates may be offered appointment fixed pay basis. If such offer are not accepted steps should be taken for holding fresh selection creating fixed pay posts as indicated above.*

3. *All Departments/ Head of Departments are requested to take necessary accordingly. No.F.10(2)-FIN(G)/05/Part-I Sd/- (Mrs. B. Deb Barma) Under Secretary to the Government of Tripura"*

(emphasis supplied)

22) This was modified in the Memorandum dt.16.10.2007 in the following manner:

**“GOVERNMENT OF TRIPURA
DEPARTMENT OF FINANCE**
No.F.10(2)-FIN(G)/05/Part-I Dated, the 16th October,
2007.

MEMORANDUM

Subject:- Providing of different benefits to employees recruited on fixed pay basis by keeping abeyance regular pay scale posts.

1....

2....

3. *On consideration of the above position, it has been decided to provide following benefits:*

i) *Those employees who were recruited on Fixed-pay basis against fixed pay posts created by keeping abeyance regular scale posts and recruited on observance of all required formalities including adherence to provision of RR would be provided benefit of leave, coverage under Die-in-harness scheme, seniority in service like regular pay scale employees, counting of full fixed pay period for the purpose of pension and retirement benefits. Identical benefits would be provided to the fixed pay employees appointed against supernumerary posts created in different Departments for providing jobs under extremist violence cases/ die-in-harness cases. Department-wise list of such employees whose particulars have been found consistent with the requirement is enclosed herewith.*

ii) *Service records of these employees would be maintained by opening of service-book for each of such fixed pay employees.*

iii) *After opening of the service book and on completion of 5 (five) years of service from the date of joining, such employees would be provided regular scale of pay.*

4. *To facilitate quick action for implementation of the above decision, appropriate authorities of the concerned*

Administrative Departments of the State Government are authorized to take following action:

i) For the purpose of extending the benefits, only those names are to be considered which are included in the annexure attached herewith subject to verification of all required certificate and documents. Benefit in respect of leave is to be extended to such Fixed-pay employees with effect from 1st October, 2007.

ii) After verification of required certificates and documents and on completion of 5 (five) years of service without any break, regular pay scale would be provided from the following date.

iii) After getting benefit of regular scale of pay, the concerned employee will be eligible to get admissible DA and other benefit.

iv) If any genuine case is found left out in the enclosed annexure that may be referred to the F.D. to consider inclusion.

v) In future wherever new candidates will be recruited under Fixed-pay post created by keeping abeyance regular scale post, their names and particulars will have to be sent to the F.D. for extending the aforesaid benefits to them.

5. All departments are requested to take action immediately for implementation of the above decisions.

Sd/- illigible
(A. Roy)
Deputy Secretary to the
Government of Tripura”
(emphasis supplied)

The concept of Equal pay for equal work

23) The principle of ‘equal pay for equal work’ has been discussed in several judgments of the Supreme Court.

24) In *Randhir Singh v. Union of India*⁶, the Supreme Court of India held:

“8. It is true that the principle of “equal pay for equal work” is not expressly declared by our Constitution to be a fundamental right. But it certainly is a constitutional goal. Article 39(d) of the Constitution proclaims “equal pay for equal work for both men and women” as a directive principle of State Policy. “Equal pay for equal work for both men and women” means equal pay for equal work for everyone and as between the sexes. Directive principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Article 14 of the Constitution enjoins the State not to deny any person equality before the law or the equal protection of the laws and Article 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean something to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay. ... Questions concerning wages and the like, mundane they may be, are yet matters of vital concern to them and it is there, if at all that the equality clauses of the Constitution have any significance to them. The Preamble to the Constitution declares the solemn resolution of the people of India to constitute India into a Sovereign Socialist Democratic Republic. Again the word “socialist” must mean something. Even if it does not mean ‘to each according to his need’, it must at least mean

⁶ (1982) 1 SCC 618 : 1982 SCC (L&S) 119, at page 622

“equal pay for equal work”. Construing Articles 14 and 16 in the light of the Preamble and Article 39 (d), we are of the view that the principle “equal pay for equal work” is deducible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer.

9. There cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government. If anything, by reason of their investiture with the “powers, functions and privileges of a police officer”, their duties and responsibilities are more arduous. In answer to the allegation in the petition that the driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments, it was admitted by the respondents in their counter that the duties of the driver-constables of the Delhi Police Force were onerous. What then is the reason for giving them a lower scale of pay than others? There is none. The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of “equal pay for equal work” is not a principle which the courts may recognise and act upon. We have shown that the answer is unsound. The clarification is irrational. We, therefore, allow the writ petition and direct the respondents to fix the scale of pay of the petitioner and the driver-constables of the Delhi Police Force at least on a par with that of the drivers of the Railway Protection Force. The scale of pay shall be effective from January 1,

1973, the date from which the recommendations of the Pay Commission were given effect.”

(emphasis supplied)

25) Thus principle of ‘equal pay for equal work’ as flowing from Art.14, 16 and Art.39(d) of the Constitution of India is applied to cases of unequal scales of pay based on no classification or irrational classification and has been reiterated in a number of cases. It was held that in determining equality of functions and responsibilities under the principle of “equal pay for equal work”, it is necessary to keep in mind that the duties of the two posts should be of equal sensitivity, and also, qualitatively similar. Differentiation of pay scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification, and therefore, pay differentiation would be legitimate and permissible. If there is no classification or it is irrational or arbitrary, differentiation of pay scales is impermissible.

26) In ***State of Punjab v. Jagjit Singh***⁷, the Supreme Court summed up the principles for applying the doctrine of “equal pay for equal work” in the following manner:

“42.1. The “onus of proof” of parity in the duties and responsibilities of the subject post with the reference post under the principle of “equal pay for equal work” lies on the person who claims it. He who approaches the court has to establish that the subject post occupied by him requires him to discharge equal work of equal value, as the reference post (see *Orissa University of Agriculture & Technology case*⁸, *UT Chandigarh, Admn. v.*

⁷ (2017) 1 SCC 148

⁸ (2003) 5 SCC 188

*Manju Mathur*⁹, *SAIL case*¹⁰ and *National Aluminium Co. Ltd. case*¹¹).

42.2. *The mere fact that the subject post occupied by the claimant is in a “different department” vis-à-vis the reference post does not have any bearing on the determination of a claim under the principle of “equal pay for equal work”. Persons discharging identical duties cannot be treated differently in the matter of their pay, merely because they belong to different departments of the Government (see **Randhir Singh case**(6 supra) and **D.S. Nakara case**¹²).*

42.3. *The principle of “equal pay for equal work”, applies to cases of unequal scales of pay, based on no classification or irrational classification (see **Randhir Singh case**(6 supra)). For equal pay, the employees concerned with whom equation is sought, should be performing work, which besides being functionally equal, should be of the same quality and sensitivity (see **Federation of All India Customs and Central Excise Stenographers case**¹³, **Mewa Ram Kanojia case**¹⁴, **Grih Kalyan Kendra Workers’ Union case**¹⁵ and **S.C. Chandra case**¹⁶).*

42.4. *Persons holding the same rank/designation (in different departments), but having dissimilar powers, duties and responsibilities, can be placed in different scales of pay and cannot claim the benefit of the principle of “equal pay for equal work” (see **Randhir Singh case**(6 supra), **State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.**¹⁷ and **Hukum Chand Gupta case**¹⁸). Therefore, the principle would not be*

⁹ (2011) 2 SCC 452

¹⁰ (2011) 11 SCC 122

¹¹ (2014) 6 SCC 756

¹² (1983) 1 SCC 305

¹³ (1988) 3 SCC 91

¹⁴ (1989) 2 SCC 235

¹⁵ (1991) 1 SCC 619

¹⁶ (2007) 8 SCC 279

¹⁷ (2002) 6 SCC 72

¹⁸ (2012) 12 SCC 666

automatically invoked merely because the subject and reference posts have the same nomenclature.

42.5. In determining equality of functions and responsibilities under the principle of “equal pay for equal work”, it is necessary to keep in mind that the duties of the two posts should be of equal sensitivity, and also, qualitatively similar. Differentiation of pay scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification, and therefore, pay differentiation would be legitimate and permissible (see **Federation of All India Customs and Central Excise Stenographers case**(13 supra) and **SBI case**¹⁹). The nature of work of the subject post should be the same and not less onerous than the reference post. Even the volume of work should be the same. And so also, the level of responsibility. If these parameters are not met, parity cannot be claimed under the principle of “equal pay for equal work” (see **State of U.P. v. J.P. Chaurasia**²⁰ and **Grih Kalyan Kendra Workers’ Union case**(15 supra).

42.6. For placement in a regular pay scale, the claimant has to be a regular appointee. The claimant should have been selected on the basis of a regular process of recruitment. An employee appointed on a temporary basis cannot claim to be placed in the regular pay scale (see **Orissa University of Agriculture & Technology case**(8 supra).

42.7. Persons performing the same or similar functions, duties and responsibilities, can also be placed in different pay scales. Such as — “selection grade”, in the same post. But this difference must emerge out of a legitimate foundation, such as — merit, or seniority, or some other relevant criteria (see **State of U.P. v. J.P. Chaurasia**(20 supra)).

¹⁹ (2002) 4 SCC 556

²⁰ (1989) 1 SCC 121

42.8. *If the qualifications for recruitment to the subject post vis-à-vis the reference post are different, it may be difficult to conclude that the duties and responsibilities of the posts are qualitatively similar or comparable (see **Mewa Ram Kanojia** case(14 supra) and **State of W.B. v. Tarun K. Roy**²¹). In such a case the principle of “equal pay for equal work” cannot be invoked.*

42.9. *The reference post with which parity is claimed under the principle of “equal pay for equal work” has to be at the same hierarchy in the service as the subject post. Pay scales of posts may be different, if the hierarchy of the posts in question, and their channels of promotion, are different. Even if the duties and responsibilities are same, parity would not be permissible, as against a superior post, such as a promotional post (see **Union of India v. Pradip Kumar Dey**²² and **Hukum Chand Gupta** case(18 supra))*

42.10. *A comparison between the subject post and the reference post under the principle of “equal pay for equal work” cannot be made where the subject post and the reference post are in different establishments, having a different management. Or even, where the establishments are in different geographical locations, though owned by the same master (see **Harbans Lal** case²³). Persons engaged differently, and being paid out of different funds, would not be entitled to pay parity (see **Official Liquidator v. Dayanand**²⁴).*

42.11. *Different pay scales, in certain eventualities, would be permissible even for posts clubbed together at the same hierarchy in the cadre. As for instance, if the duties and responsibilities of one of the posts are more onerous, or are exposed to higher nature of operational work/risk, the principle of “equal pay for equal work” would not be applicable. And also when the reference post includes the responsibility to take crucial*

²¹ (2004) 1 SCC 347

²² (2000)8 SCC 580

²³ (1989) 4 SCC 459

²⁴ (2008) 10 SCC 1

decisions, and that is not so for the subject post (see SBI case(19 supra)).”

(emphasis supplied)

A regular appointee is entitled to regular pay scale

27) Thus as per para 42.6 of *Jagjit Singh(7 supra)*, for placement in a regular pay scale, the claimant has to be a regular appointee. The claimant should have been selected on the basis of a regular process of recruitment.

28) The appellants satisfy this norm because the advertisements pursuant to which they had been appointed stated that ‘permanent posts’ of Graduate and Post Graduate teachers i.e. they were regular posts, were being filled up. There was admittedly, a regular process of selection and all appellants fulfilled the eligibility criteria prescribed in the recruitment Rules and were selected on merit.

29) The respondents have not disputed that prior to 2001, persons appointed to Group-C and Group-D posts were getting regular scale of pay from the date of their appointment and only in 2001, the fixed pay policy was introduced; and later in 2007 it was restricted to 5 years. After the 5 year period expires, the appointee is being paid regular scale of pay.

30) The respondents have also not disputed that persons appointed through Tripura Public Service Commission to Group C and D posts were getting regular scale of pay from the date of their appointment.

31) It is not the case of the respondents that appellants and the Graduate and Post Graduate Teachers appointed before 2001 or through the Tripura Public Service Commission previously are discharging different duties or volume of work, responsibility or sensitivity. There is no denial of the

appellant's contention that they are performing same duties as them. So there is no rational basis of differentiation between the appellants and such persons.

32) So in the same pool of teachers, some of whom as Graduates and some are Post Graduates, some people are being paid regular scale of pay from initial appointment (when appointed prior to 2001 and those appointed through the Tripura Public Service Commission), but others like appellants are not being paid the regular scale of pay for first 5 years and only later, when they complete 5 years service, they are being paid the regular scale of pay, having been appointed after 2007.

33) As per **Jagjit Singh** (7 supra), the principle of "equal pay for equal work", applies to cases of unequal scales of pay, based on no classification or irrational classification. The cases of the appellants squarely fall in this category.

34) The action of the respondents is blatantly arbitrary and violates Art.14 and 16 of the Constitution of India. There cannot be discrimination amongst them by giving some regular scale and some fixed pay.

35) In fact in certain decisions referred to below, the Supreme Court had applied the principle of 'equal pay for equal work' and granted relief to casual workers on daily wage basis and even those appointed for short duration such as one year or daily rated employees on par with regular appointees to such posts. The appellants, who have been appointed against regular posts which are permanent therefore stand on a much better and stronger footing than such persons. We shall briefly deal with some of them.

36) In *Dhirendra Chamoli v. State of U.P.*²⁵, two Class IV employees of the Nehru Yuvak Kendra, Dehradun, engaged as casual workers on daily-wage basis, claimed that they were doing the same work as Class IV employees appointed on regular basis. The reason for denying them the pay scale extended to the regular employees was that there was no sanctioned post to accommodate the petitioners, and as such, the assertion on behalf of the respondent employer was, that they could not be extended the benefits permissible to regular employees. Furthermore, their claim was sought to be repudiated on the ground that the petitioners had taken up their employment with the Nehru Yuvak Kendra knowing fully well that they would be paid emoluments of casual workers engaged on daily-wage basis, and therefore, they could not claim beyond what they had voluntarily accepted.

37) The Supreme Court held that it was not open to the Government to exploit citizens, especially when India was a welfare State, committed to a socialist pattern of society. The argument raised by the Government was found to be violative of the mandate of equality enshrined in Article 14 of the Constitution. The Supreme Court held that the mandate of Article 14 ensured that there would be equality before law and equal protection of the law. It was inferred therefrom that there must be “equal pay for equal work”. Having found that employees engaged by different Nehru Yuvak Kendras in the country were performing similar duties as regular Class IV employees in its employment, it was held, that they must get the same salary and conditions of service as regular Class IV employees, and that, it made no difference whether

²⁵ (1986) 1 SCC 637

they were appointed on sanctioned posts or not. So long as they were performing the same duties, they must receive the same salary.

38) In *Surinder Singh v. CPWD*²⁶, the petitioners were employed by the Central Public Works Department on daily-wage basis. They demanded the same wage as was being paid to permanent employees doing identical work. Herein, the respondent employer again contested the claim by raising the plea that petitioners could not be employed on regular and permanent basis for want of permanent posts. One of the objections raised to repudiate the claim of the petitioners was that the doctrine of “equal pay for equal work” was a mere abstract doctrine and was not capable of being enforced in law.

The objections raised by the Government were rejected. The Supreme Court held that all organs of the State were committed to the directive principles of the State policy. It was pointed out that Article 39 enshrined the principle of “equal pay for equal work”, and accordingly this Court concluded that the principle of “equal pay for equal work” was not an abstract doctrine. It was held to be a vital and vigorous doctrine accepted throughout the world, particularly by all socialist countries. Referring to the decision rendered by this Court in *D.S. Nakara case*²⁷, it was held, that the above proposition had been affirmed by a Constitution Bench of this Court. It was held that the Central Government, the State Governments and likewise, all public sector undertakings, were expected to function like model and enlightened employers and further, the argument that the above principle was merely an abstract doctrine which could not be enforced through a court of law, could not be raised either by the State or by State undertakings. The

²⁶ (1986) 1 SCC 639

²⁷ (1983) 1 SCC 305

petitions were accordingly allowed, and the Nehru Yuvak Kendras were directed to pay all daily-rated employees, salaries and allowances as were paid to regular employees from the date of their engagement.

39) In *Bhagwan Dass v. State of Haryana*²⁸, the Education Department of the State of Haryana was pursuing an adult education scheme, sponsored by the Government of India, under the National Adult Education Scheme. The object of the Scheme was to provide functional literacy to illiterates in the age group of 15 to 35, as also to impart learning through special contract courses to students in the age group of 6 to 15, comprising of dropouts from schools. The petitioners were appointed as Supervisors. They were paid remuneration @ Rs 5000 per month, as fixed salary. Prior to 7-3-1984, they were paid fixed salary and allowance, @ Rs 60 per month. Thereafter, the fixed salary was enhanced to Rs 150 per month. The reason for allowing them fixed salary was that they were required to work only on part-time basis. The case set up by the State Government was, that the petitioners were not full-time employees; their mode of recruitment was different from Supervisors engaged on regular basis; the nature of functions discharged by them was not similar to those discharged by Supervisors engaged in the regular cadre; and their appointments were made for a period of six months, because the posts against which they were appointed were sanctioned for one year at a time.

Having examined the controversy, the Supreme Court rejected all the above submissions advanced on behalf of the State Government. It was held, that the duties discharged by the petitioners even though for a shorter

²⁸ (1987) 4 SCC 634

duration were not any different from Supervisors engaged in the regular cadre. Even though recruitment of Supervisors in the regular cadre was made by the Subordinate Selection Board by way of an open selection, whereas the petitioners were selected through a process of consideration which was limited to a cluster of a few villages, it was concluded that, that could not justify the denial to the petitioners, wages which were being paid to Supervisors, working in the regular cadre. It was held, that *so long as the petitioners were doing work which was similar to the work of Supervisors engaged in the regular cadre, they could not be denied parity in their wages. Accordingly it was held, that from the standpoint of the doctrine of “equal pay for equal work”, the petitioners could not be discriminated against in regard to pay scales.* Having concluded that the petitioners possess the essential qualification for appointment to the post of Supervisor, and further the duties discharged by them were similar to those appointed on regular basis, it was held, that the petitioners could not be denied wages payable to regular employees. The Court also declined the plea canvassed on behalf of the Government that they were engaged in a temporary scheme against posts which were sanctioned on year-to-year basis. On the instant aspect of the matter, it was held, that the same had no bearing to the principle of “equal pay for equal work”. It was held that the only relevant consideration was whether the nature of duties and functions discharged and the work done was similar. While concluding this, the Court clarified that in the said case, it was dealing with temporary employees engaged by the same employer, doing work of the same nature as was being required of those engaged in the regular cadre on a regular basis. It was held that the petitioners, who were engaged on temporary

basis as Supervisors, were entitled to be paid on the same basis, and in the same pay scale, at which those employed in the regular cadre discharging similar duties as Supervisors were being paid.

40) These decisions were all referred to in *Jagjit Singh* (7 supra) case.

41) When the above decisions apply principle of 'equal pay for equal work' to daily wage employees and temporary employees and holds they are entitled to minimum of scale of pay of regular employees, the appellants who were appointed against regular vacancies through a regular process of selection on merit, undoubtedly stand on a better and stronger footing. They could not have been denied the benefit of regular pay scale and other benefits from the date of their initial appointment by the respondents on the basis of the two Memorandums.

42) So the policy framed by the State Government in the memorandum dt.15.12.2001 and memorandum dt.16.10.2007, though approved by the Cabinet, of giving 'fixed pay' to persons appointed on regular posts by keeping in abeyance the regular pay scale is arbitrary, irrational and unreasonable and violates Art.14 of the Constitution of India.

43) It is not open to the Government to exploit citizens, especially when India is a welfare State, committed to a socialist pattern of society. The State Government is expected to function like model and enlightened employer and cannot resort to such actions.

Policy decisions/Cabinet decisions not immune from judicial review

44) We also do not accept the plea of the State that since the decisions taken in these two memorandums dt.15.12.2001 and 16.10.2007 are

pursuant to Cabinet decisions/policy decisions this Court ought not to interfere with the same, and the single Judge had rightly denied relief to the appellants.

45) This issue is no more *res integra* and the Supreme Court has held time and again that if policies framed by the Government are arbitrary or unreasonable or violate any fundamental right, they can be challenged in Constitutional Courts and relief can also be granted to such petitioners.

46) Way back in 1972, the Supreme Court in ***Bennett Coleman & Co. v. Union of India***²⁹, while dealing with newsprint import policy held that it violated Art.14 and Art.19(1)(d) of the Constitution of India. It held:

“69. ...The 10 page ceiling imposed affecting 22 big newspapers operating above 10 page level with approximate circulation of over 23 lakhs i.e. more than 25 per cent of the total circulation is arbitrary and treats them equally with others who are unequal irrespective of the needs and requirements of the big dailies and thus violates Article 14 of the Constitution.

70. The impeached policy violates Article 14 because it treats newspapers which are not equal equally in assessing the needs and requirements of newsprint. The Government case is that out of 35 newspapers which were operating on a quota calculated on a higher page level than 10 pages 28 newspapers will benefit by the impeached policy of 1972-73. But seven newspapers out of 22 which were operating above 10 page level are placed at a disadvantage by the fixation of 10 page limit and entitlement to quota on that basis. There is no intelligible differentia. Nor has this distinction any relation to equitable distribution of newsprint. The impeached policy also offends Article 19(1)(a) of the Constitution.

²⁹ (1972) 2 SCC 788, at page 816

Newspapers like 19 language dailies reduced their pages in order to increase circulation though such language dailies had prior to 1972-73 been given quota to increase pages. Under the impeached policy these language dailies are given additional quota to increase their pages against to 10.”

(emphasis supplied)

47) Again in 1980, in *Nishi Maghu v. State of J & K*³⁰, it was held that if a policy decision is arbitrary, it is not immune from challenge. The Supreme Court observed:

“12.... Reserving 50 marks for interview out of a total of 150 (100 for written examination and 50 for interview) does seem excessive especially when the time spent was not more than 4 minutes on each candidate. It is difficult to see how it is possible within this short span of time to make a fair estimate of a candidate’s suitability on a consideration of the five specified factors which are not capable of easy determination, such as physical fitness, personality, aptitude, general knowledge and general intelligence. It is also not clear how by merely looking at a candidate the Selection Committee could come to a conclusion about his or her physical fitness. The fact that the allotment of marks is in accordance with a policy decision may not conclude the matter in all circumstances; if that decision is found to be arbitrary and infringing Article 14 of the Constitution, it cannot claim immunity from challenge.”

(emphasis supplied)

48) In 1991, in *Shrilekha Vidyarthi (Kumari) v. State of U.P.*³¹, the Supreme Court declared that Article 14 of the Constitution of India applies

³⁰ (1980) 4 SCC 95, at page 102

also to matters of governmental policy and if the policy or any action of the government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional. The wide sweep of Article 14 and the requirement of every State action qualifying for its validity on this touchstone, irrespective of the field of activity of the State, has long been settled.

49) In 1995, the Supreme Court reiterated it in ***State of Rajasthan v. Sevanivatra Karamchari Hitkari Samiti***³², held:

“24. The wisdom in a policy decision of the Government, as such, is not justiciable unless such policy decision is wholly capricious, arbitrary and whimsical thereby offending the Rule of law as enshrined in Article 14 of the Constitution or such policy decision offends any statutory provisions or the provisions of the Constitution. Save as aforesaid, the Court need not embark on uncharted ocean of public policy.”

(emphasis supplied)

50) So there is no merit in the plea of respondents that there is absolute immunity to an administrative decision merely because it is a policy decision approved by the State Cabinet.

51) Since the said policy in the Memorandum dt.15.12.2001 and Memorandum dt.16.10.2007 is violative of Art.14 of the Constitution of India, they cannot be allowed to stand and are accordingly struck down.

³¹ (1991) 1 SCC 212 : 1991 SCC (L&S) 742, at page 239

³² (1995) 2 SCC 117 : 1995 SCC (L&S) 415 : (1995) 29 ATC 199, at page 125 :

No plea raised by respondents in their counter affidavits about financial stringency and so single Judge erred in basing his judgment on said plea

52) There is much discussion in the impugned judgment of the learned Single Judge about financial constraints of the State resulting in adopting the policy of fixed pay, but we have not been able to find any pleading to that effect in the counter affidavits filed by the respondents before the learned Single Judge.

53) No material has also been placed before us to show that the State Government had financial constraints.

54) When there is no such plea in the counter affidavit and no material filed to support it, it was not open to the learned single judge to create a ground of justification for the respondents to adopt the fixed pay policy contained in the two impugned Memorandums.

55) The action of the respondents in issuing appointment letters to the appellants stating that their appointment is temporary and liable to be terminated with 3 months notice, is patently illegal, arbitrary and violative of Art.14 of the Constitution of India. Having advertised 'permanent' teacher posts, after the selection process is completed, it is not permissible for the respondents to appoint them as 'temporary teachers' for 1 year with their services terminable on 3 months' notice. They are estopped by their own advertisement from doing so.

The respondents cannot plead appellants are estopped from challenging the 'fixed pay' clause in their appointments because they were aware of it from the advertisements

56) The plea of the respondents that appellants were aware that they will be getting only fixed pay from the date of their appointment because it

was mentioned in the advertisements and so they cannot claim regular pay scale, is also untenable.

57) There can be no dispute that bargaining power between the respondents and the appellants is unequal. The appellants cannot be expected to negotiate individually with the respondents about the illegality committed by the respondents in giving them ‘fixed pay’ in their respective appointment letters though they were getting appointed against regular/permanent posts after undergoing a proper selection process.

58) In *Central Inland Water Transport Co. v. Brojonath*³³, the Supreme Court declared:

“100. ... A clause such as Rule 9(i) in a contract of employment affecting large sections of the public is harmful and injurious to the public interest for it tends to create a sense of insecurity in the minds of those to whom it applies and consequently it is against public good. Such a clause, therefore, is opposed to public policy and being opposed to public policy, it is void under Section 23 of the Indian Contract Act.

101. It was, however, submitted on behalf of the appellants that this was a contract entered into by the Corporation like any other contract entered into by it in the course of its trading activities and the court, therefore, ought not to interfere with it. It is not possible for us to equate employees with goods which can be bought and sold. It is equally not possible for us to equate a contract of employment with a mercantile transaction between two businessmen and much less to do so when the contract of employment is between a powerful employer and a weak employee.”

102. It was also submitted on behalf of the appellants that Rule 9(i) was supported by mutuality inasmuch as it conferred

³³ (1986) 3 SCC 156

an equal right upon both the parties, for under it just as the employer could terminate the employee's service by giving him three months' notice or by paying him three months' basic pay and dearness allowance in lieu thereof, the employee could leave the service by giving three months' notice and when he failed to give such notice, the Corporation could deduct an equivalent amount from whatever may be payable to him. It is true that there is mutuality in Rule 9(i)—the same mutuality as in a contract between the lion and the lamb that both will be free to roam about in the jungle and each will be at liberty to devour the other. When one considers the unequal position of the Corporation and its employees, the argument of mutuality becomes laughable."

(emphasis supplied)

59) This logic applies equally to the contracts between the appellants and respondents and the clauses (a) appointing them on temporary basis; (b) liable for termination without reason with 3 months' notice and (c) denying them regular wages by paying only fixed wages for 5 years after appointment in their appointment letters are all opposed to public policy and hit by Section 23 of the Contract Act, 1872 and void.

There is no estoppel against the Constitution and no waiver of fundamental right

60) There cannot be any estoppel against the Constitution of India and there cannot be any waiver of a fundamental right. In ***Olga Tellis v. Bombay Municipal Corporation***³⁴, the Supreme Court held :

“ 28. ... The Preamble of the Constitution says that India is a democratic Republic. It is in order to fulfil the promise of the Preamble that fundamental rights are conferred by the Constitution, some on citizens like those guaranteed by Articles 15, 16, 19, 21 and 29 and, some on citizens and

³⁴ (1985) 3 SCC 545

non-citizens alike, like those guaranteed by Articles 14, 21, 22 and 25 of the Constitution. No individual can barter away the freedoms conferred upon him by the Constitution. A concession made by him in a proceeding, whether under a mistake of law or otherwise, that he does not possess or will not enforce any particular fundamental right, cannot create an estoppel against him in that or any subsequent proceeding. Such a concession, if enforced, would defeat the purpose of the Constitution. Were the argument of estoppel valid, an all-powerful State could easily tempt an individual to forego his precious personal freedoms on promise of transitory, immediate benefits. Therefore, notwithstanding the fact that the petitioners had conceded in the Bombay High Court that they have no fundamental right to construct hutments on pavements and that they will not object to their demolition after 15-10-1981, they are entitled to assert that any such action on the part of public authorities will be in violation of their fundamental rights. How far the argument regarding the existence and scope of the right claimed by the petitioners is well-founded is another matter. But, the argument has to be examined despite the concession.

29. The plea of estoppel is closely connected with the plea of waiver, the object of both being to ensure bona fides in day-to-day transactions. In **Bashesar Nath v. CIT**³⁵, a Constitution Bench of this Court considered the question whether the fundamental rights conferred by the Constitution can be waived. Two members of the Bench (Das, C.J. and Kapoor, J.) held that there can be no waiver of the fundamental right founded on Article 14 of the Constitution. Two others (N.H. Bhagwati and Subba Rao, JJ.) held that not only could there be no waiver of the right conferred by Article 14, but there could be no waiver of any

³⁵ AIR 1959 SC 159

other fundamental right guaranteed by Part III of the Constitution. The Constitution makes no distinction, according to the learned Judges, between fundamental rights enacted for the benefit of an individual and those enacted in public interest or on grounds of public policy.”

61) This was again reiterated recently in ***Lombardi Engg. Ltd. v. Uttarakhand Jal Vidyut Nigam Ltd.***³⁶

62) So the respondents cannot contend that the advertisements on the basis of appellants were selected and appointed mentioned that the appellants would get ‘fixed pay’, that the appellants accepted the same without questioning it and they are estopped from now contending otherwise.

63) We also reject the plea of the respondents that :

(i) the Recruitment Rules indicate the extent of the scale of pay and not the formula for determination of pay or the guarantee for grant of a regular pay scale;

(ii) that the Memorandum dt.15.12.2001 and the Memorandum dt.16.10.2007 together speak of the formula for the determination of pay;

(iii) that these executive instructions do not interfere with the pay scale but settle down the formula for determination of pay;

(iv) and so the subjects of the two are different and there is no cause to equate the same.

Such hair splitting cannot be done and the so called distinction is meaningless and absurd. It cannot be countenanced.

³⁶ (2024) 4 SCC 341

64) We agree with the contention of the appellants that the intent behind the policy to appoint only the Group C and D employees, who are lowest in the hierarchy of employees, on fixed pay is to deny fair and legitimate salary to them and amounts to their exploitation and that the State has a duty, while formulating policies, to minimize the inequalities of income and eliminate inequalities in status, facilities and opportunities.

65) Since the appellants have approached this Court only in 2022 and not immediately after their appointment as Graduate/Post Graduate teachers, we direct that the benefit of regular pay be given to each of them notionally from the date of their joining their service initially as per appointment orders issued to them by respondents, but actual financial benefits (arrears) shall be paid for period 3 years prior to the dates of filing of the respective Writ Petitions with interest at 9% p.a. till date of actual payment which shall not be more than 3 months from today.

66) For all the aforesaid reasons:

(a) The Writ Appeals are allowed;

(b) The common judgment of the learned Single Judge dt.17.1.2025 in W.P.(C) N0.68 of 2022 and W.P.(C).No.968 of 2022 is set aside; Consequently, the said Writ Petitions are allowed.

(c) The Memorandum dt.15.12.2001 and the Memorandum dt.16.10.2007 are declared arbitrary, unconstitutional and violative of Art.14 of the Constitution of India;

(d) The appellants shall be deemed to have been regularly appointed to the Graduate Teacher and Post Graduate Teacher posts in the School

Education Department of the State of Tripura from their initial date of appointment ;

(e) the benefit of regular pay and other service benefits be given to each of them notionally from the date of their joining their service initially as per appointment orders issued to them by respondents, but actual financial benefits (arrears) shall be paid for period 3 years prior to the dates of filing of the respective Writ Petitions with interest at 9% p.a. till date of actual payment which shall not be more than 3 months from today.

(f) The respondents shall also pay costs of Rs.2000/- within 3 months to each of the appellants.

Pending applications (if any) shall stand disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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