

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.271 of 2025**

Mita Deb Saha

W/O Goutam Saha, R/O Subhash Palli, AD Nagar,
P.O & P.S:A.D. Nagar, Agartala, West Tripura.

----- Petitioner(s)

Versus

1. The State of Tripura,

To be represented by the Secretary, PWD(R & B),
Government of Tripura, New Capital Complex,
New Secretariat Building, Agartala, West Tripura, Pin-799010.

2. The Secretary, Finance Department,

Government of Tripura, New Capital Complex,
New Secretariat Building, Agartala, West Tripura, Pin-799010.

3. The Chief Engineer (R&B),

Govt. of Tripura, New Capital Complex,
New Secretariat Building, Agartala, West Tripura, PIN-799010.

----- Respondents

For Petitioner(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv, Mr. Aradhita Debbarma, Adv.
For Respondent(s)	:	Mr. Pradyumna Gautam, Sr. G.A.,
Date of hearing	:	25.02.2026
Date of delivery of Judgment & Order	:	03.03.2026
Whether fit for reporting	:	YES मेव जयते

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

The petitioner has filed this writ petition seeking the following reliefs:

a) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to regularize the Petitioner with all incidental and consequential benefit in the post of Group-C, w.e.f. 01.01.2008, the date the Petitioner's service was regularized as Peon, Group-D after completion of 10 years as Casual Worker since her initial engagement on 12.03.1992.

b) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby quashing and cancelling the letter,

dated, 16.04.2025, issued by the Engineering Officer, to the Chief Engineer, PWD(R&B).

c) Make the rules absolute.

d) Call for records.

e) Pass any further order/orders as this Hon'ble High Court considered fit and proper.

And

For this act of kindness, your humble Petitioner as in duty bound shall ever pray.

2. Heard Learned Senior Counsel, Mr. Purusuttam Roy Barman assisted by Learned Counsel, Mr. Aradhita Debbarma appearing on behalf of the petitioner and also heard Learned Sr. G.A., Mr. Pradyumna Gautam appearing on behalf of the State-respondents.

3. At the time of hearing, Learned Senior Counsel for the petitioner drawn the attention of this Court by a memorandum dated 12.03.1992, the petitioner was engaged as a Casual Worker under the establishment of Executive Engineer, Agartala, Division-IV (Annexure-1). Thereafter, she completed her Madhyamik Pariksha (Secondary Examination) from TBSE in the year 1997 (Annexure-2). After that, the Engineering Officer to the Chief Engineer, PWD(R&B) forwarded one communication to Joint Secretary, Finance Department (Annexure-3) informing the list of the DRW/Part Time/Contingent/Casual Workers against memorandum No.20.10.2003 wherein the name of the petitioner was reflected in serial No.141. After that, the Under Secretary, Finance Department forwarded one letter to Treasury Officer, Agartala Treasury No.I & II/Udaipur/Kailashahar/Ambassa on 15.06.2004 (Annexure-4) informing the list of DRW/Contingent/Part Time employees wherein the name of the petitioner was shown to be in serial No.2590 as a Casual Worker. After that, on 01.09.2008 the Government of Tripura

issued one memorandum regarding regularization of services of DRWs/Casual/Contingent workers. For the sake of convenience, the same is mentioned herein below:

**No.F.10(2)-FIN(G)/2008(Part)
GOVERNMENT OF TRIPURA
DEPARTMENT OF FINANCE**

Dated, Agartala, the 1st September, 2008

M E M O R A N D U M

Subject: Regularization of services of DRWs/Casual/Contingent Workers on completion of 10 years of service as on 31-03-2008

The undersigned is directed to inform that the Government has taken a policy decision to regularize services of full-time DRWs/Casual/Contingent Workers who have completed 10 (ten) years of service as on 31-03-2008 and fulfill the following criterion as per Department-wise names and particulars attached herewith:

i) DRW/Casual/Contingent workers who were engaged on a full time basis in different Departments with or without concurrence of Finance Department and have completed 10 years of service as on 31-3-2008 other than Permanent Labourers, Part-time workers, Anganwadi Workers and Helpers, Home Guards, Teachers and Workers engaged under SSA and other Schemes/programmes, may be considered for regularization as per names attached.

ii) Requirement of age as per Recruitment Rules will be deemed to be relaxed for the purpose of this regularization.

iii) Requirement of educational qualification as per Recruitment Rules will be deemed as relaxed for regularization under Group D only. In case of DRW/and Contingent Workers who were appointed under Group category, educational qualification as required under concerned R.R. must be ensured while entertaining their cases for regularization.

iv) Except age and educational qualification mentioned in point (iii) all other criterion as per relevant Recruitment Rules including reservation roster will have to be followed strictly for this process of regularization.

vi) Subject to fulfillment of above conditions, the eligible workers will be provided pay scale in the relevant grade for their regularization which will take effect from 1st July 2008.

2. 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 actions:

i) The Departments will scrutinize the records and particulars of the workers whose names and particulars are included in the annexure attached herewith to ascertain their eligibility for regularization. Only those workers out of the attached annexure who fulfills all the above criterion are to be regularized.

ii) While ascertaining eligibility, other than relaxation made in respect of educational qualification and age, other requirements like nationality. reservation quota are to be followed strictly.

iii) After ascertaining the number of eligible cases, the department will take steps for creation of required number of posts in the appropriate category including creation for post for SC and ST as per 100 point roster for accommodating them in the concerned pay scale for regularization. The computation is to be done to ensure 31% reservation for ST & 17% reservation for SC against the member of UR candidates as per list enclosed without bringing any previous backlog. Formal appointment orders are to be issued by concerned appropriate authority accordingly. After taking this step department will send proposal to the Finance Department for ex-post-facto concurrence for creation of posts.

iv) Following regularization of the eligible cases out of list attached herewith, the Departments are required to take action to ensure recruitment of shortfall of candidates under ST & SC category to fulfill the roster. In respect of such shortfall under Group D category, the Tribal Welfare Department would act as the Nodal Department for selection of required number of candidates and sponsoring them to the respective Department. The Departments are requested to send a report within one month to the Finance Department indicating action taken as per the instant Memorandum and details of posts filled up/lying vacant on completion of the process.

3. The undersigned is directed to request all concerned to ensure strict implementation of the above decisions.

Joint Secretary to the
Government of Tripura

To
Secretary In-charge of _____ Department

Copy to:

1. Principal Secretary to the Governor, Tripura
2. Principal Secretary to Chief Minister, Govt. of Tripura
3. The Chief Secretary, Tripura, Agartala.
4. PS/PA to all Ministers, Govt. of Tripura
5. AG, Tripura, Agartala.
6. All T.O./S.T.O.

Learned Counsel after that submitted that the respondent-authority by a office order dated 10.10.2008 appointed the petitioner in the post of peon with effect from 01.01.2008 under PWD Department(Annexure-6) and accordingly she joined and started discharging her duties. Thereafter, by office order dated 16.10.2008(Annexure-7), the then SDO(PWD), Amtali Sub-Division, Badharghat released the petitioner to join in the office of SDO(PWD)

Amtali Sub-Division immediately. Thereafter, on 16.09.2013, Engineering Officer to the Chief Engineer, PWD(R&B) issued one Final Seniority List of Group-D employees (Annexure-8) wherein the name of the petitioner was shown in serial No.783 as a permanent worker with effect from 01.01.2008 as Madhyamik passed. Learned Counsel thereafter candidly submitted that the Superintendent Engineer, 4th Circle, PWD(R&B) on 16.08.2021 forwarded a proposal to the Engineer-in-Chief, PWD Department, requiring for promotion to the post of LDC from various categories of Group-D employees (Annexure-9). The petitioner accordingly submitted her representation on 27.01.2025 to the Department for regularization in Group-C post (Annexure-10). The said representation of the petitioner was forwarded by the office of SDO, Amtali sub-Division, PWD(R&B) to the office of Executive Engineer, Bishalgarh Division, PWD(R&B) on 27.01.2025 (Annexure-11).

According to Learned Senior Counsel, another employee Sibuh Deb who was also engaged as a Casual Worker was regularized to the post of Work Assistant(Group-C) on regular basis with effect from the date of regularization in the earlier Group-D post i.e. 01.01.2007 but the respondent-authority did not consider the case of the petitioner. In this regard, information was sought for through RTI and in the reply, it was mentioned that said Sibuh Deb who was joined as DRW was engaged on 08.08.1988 and on completion of 15 years of service, he was regularized with effect from 01.01.2007. However, according to Learned Senior Counsel for the petitioner although the present petitioner was in the similarly situated position but her representation

was not considered by the authority. Thereafter, one Anima Debnath and Aparajita Bhowmik filed two separate writ petitions (Annexure-14 and Annexure-15) and this High Court directed the respondent-authority to consider their appointment as a Group-C in accordance with the recruitment rules and accordingly, those employees were regularized as Group-C employees. Learned Senior Counsel for the petitioner thereafter submitted that the petitioner submitted one representation to the authority to get her regularized in Group-C post but her representation was not considered. Hence, the petitioner filed the writ petition.

4. The State-respondents have contested the writ petition by filing counter affidavit. In para Nos.9 and 10, they have asserted as under:

"9. That, in response to the contents of paragraphs-3 to 12 of this writ petition, I humbly submit that the petitioner was engaged as a Casual Worker vide Memorandum No.F.6(100)-PWD(E-II)/70(pt-90)dated 12/03/1992 of the Chief Engineer, PWD (Annexure-1 to the Writ Petition) & accordingly assumed her duties on 12/03/1992 under the control of Executive Engineer, Agartala Division No-IV, Agartala in Public Works Department, Government of Tripura. At the time of engagement being a Casual Worker the educational qualification of the Petitioner was Madhyamik plucked. Later on the petitioner had passed the Madhyamik Examination from Tripura Board of Secondary Education in the year 1997 being an external candidate. The Petitioner didn't take any No Objection from her employer i.e., Public Works Department, Government of Tripura prior to appearing before Madhyamik Examination conducted by Tripura Board of Secondary Education.

Subsequently the Government had taken a policy Vide Memorandum No.F.10(2)-FIN(G) /2008(Part), dtd. 01/09/2008 of the Commissioner & Secretary to the Government of Tripura, Finance Department (Annexure-5 to the Writ Petition) to regularize services of full time DRWs/Casual/Contingent Workers who have completed 10 (ten) years of service as on 31-03-2008 after observing the following criteria:-

I) DRW/Casual/Contingent workers who were engaged on a full time basis in different Department with or without concurrence of Finance Department and have completed 10 (ten) years of service as on 31-03-2008 other than Permanent Labourers, Part-time Workers, Anganwadi Workers and Helpers, Home Guards, Teachers and Workers engaged under SSA other Schemes/programmes, may be considered for regularisation.

II) Requirement of age as per Recruitment Rules will be treated as relaxed for this purpose of this regularisation.

III) Requirement of educational qualification as per Recruitment Rules will be treated as relaxed for regularisation of Group-D only. In case of DRW/and Contingent Workers who were appointed under Group-C category, educational qualification as required under concerned Recruitment Rules must be ensured while entertaining their cases for regularisation.

IV) Except age and educational qualification mentioned in point (III) all other criteria as per relevant Recruitment Rules including reservation roster will have to be followed strictly for this process of regularisation.

V) Subject to fulfillment of above conditions, the eligible workers will be provided pay scale in the relevant grade for their regularisation which will take effect from 1st July 2008.

But, in the instant case service of the petitioner was regularized as a Peon, Group- D temporarily for a period of 01 (one) year on regular basis w.e.f 01/01/2008 Office Order No.F.6(29)PWD(E-II)/07(P-VI) dtd. 10/10/2008 of the Chief Engineer, PWD(R&B) (Annexure-6 to the Writ Petition) due to the following reason:-

1. Finance Department Vide Memorandum No.F.10(2)-FIN(G)/2008(Part), dt.01/09/2008 (Annexure-8 to the Writ Petition) had recommended the name of the Petitioner being a Group-D as his educational qualification at the time of joining in this Department being a casual worker was Madhyamik fail (plucked).

2. Further in the same memorandum dated 01/09/2008 it was directed by the Finance Department at Para 1 (iii) that "Requirement of educational qualification as per Recruitment Rules will be treated as relaxed for regularisation under Group-D only. In case of DRW/and Contingent Workers who were appointed under Group-C category, educational qualification as required under concerned Recruitment Rules must be ensured while entertaining their cases for regularisation".

3. Prior to appear before the Madhyamik Examination the petitioner didn't take No Objection Certificate from her present employer i.e., Public Works Department.

And, for this aforesaid reasons, the Administrative Department Vide Office Order No.F.6(29)PWD(E-II)/07(P-VI) dt. 10/10/2008 of the Chief Engineer, PWD(R&B) (Annexure-6 to the Writ Petition) had regularized the service of the petitioner being a Peon, Group-D temporarily for a period of 01 (one) year on regular basis w.e.f 01/01/2008.

10. That, in response to the contents of paragraphs-13 to 17 of this writ petition, I humbly submit that one Shri Shibu Deb was engaged as DRW on 08-08-1988. At the time of his engagement being a DRW his qualification was Madhyamik failed. Later on he qualified Madhyamik Examination from Tripura Board of Secondary Education in the year 1989. Subsequently the Government had taken a policy Vide Memorandum No.F.10(2)-FIN(G)/2005, dated 22/02/2007 of the Commissioner & Secretary to the Government of Tripura, Finance Department to regularize services of full time DRWs/ Casual/Contingent Workers who have completed 15 (fifteen) years of service as on 31-03-2006 after observing the following criteria :-

a) DRW/Casual/Contingent workers who were engaged on a full time basis in different Department with or without concurrence of Finance Department and have completed 15 years of service as on 31/03/2006 other than Permanent Labourers, Part-time Workers, Anganwadi Workers and Helpers, Home Guards, Teachers and Workers engaged under SSA other Schemes/programmes, may be considered for regularisation.

b) Requirement of age as per Recruitment Rules will deem to be relaxed for the purpose of this regularisation.

c) Requirement of educational qualification as per Recruitment Rules will be deemed as relaxed for regularisation of under Group-D only. In case of DRW/and Contingent Workers who were appointed under Group-C category, educational qualification as required under concerned Recruitment Rules must be ensured while entertaining their cases for regularisation.

d) Except age and educational qualification mentioned in point (C) all other criteria as per relevant Recruitment Rules including reservation roster will have to be followed strictly for this process of regularisation.

e) Subject to fulfillment of above conditions, the eligible workers will be provided pay scale in the relevant grade for their regularisation which will take effect from 01/01/2007.

Likewise the petitioner, Shri Shibu Deb was also appointed as a Peon, Group D employee temporarily for a period of 01(one) year in the post of peon on regular basis w.e.f 01/01/2007 Vide Office Order No.F.6(29)-PWD(E-II)/2007 dated 10/01/2008 of the Chief Engineer, PWD(R&B) as his educational qualification at the time of joining in the Department being a DRW was Madhyamik fail.

Further Finance Department directed the Administrative Department that "the Candidate has passed Madhyamik (Class-X) examination and has also received the wages as DRW (Group-C). So, there may not be sufficient ground to deny him regularization as Group-C.

The department is requested to re-examine their existing stand and if the findings are found in consonance with RR of Group-C Post, then the benefit of movement to Group-C Post may be allowed to person prospectively to avoid litigation".

Further, after careful examination of records it is found that Shri Shibu Deb has requisite qualification along with other criteria as proposed by the Finance Department for DRW/Contingent Workers etc. for regularization to Group C Post being a Work Assistant. As per verified roster there was no vacancy of LDC, Group C post against UR Category at that time. So, his service was regularized being a Work Assistant, Group C post against UR category and his pay scale was fixed in the relevant grade for regularisation with prospective effect after notional fixation of pay with effect from 01/01/2007 as per condition laid down in the Memorandum No.F.10(2)-FIN(G)/2005, dated 22/02/2007 of the Commissioner & Secretary to the Government of Tripura, Finance Department & subject to fulfillment of other conditions of service.

From the above discussion it is crystal clear that the both cases are completely different. The service of Shri Shibu Deb was regularized from DRW to Work Assistant instead of from Peon. Whereas the Service of the petitioner was regularized from Casual Worker to Peon and re-fixation of pay notionally without promotion in upper post i.e., Group-

C Post with all consequential benefits is not possible before the eye of law."

Further, in para Nos.11 and 12, they have observed as under:

"11. That, in response to the contents of paragraphs-18 to 26 of this writ petition, I humbly submit that of late Finance Department, Government of Tripura vide Memorandum No. 10(2)-FIN(G)/2008(Part) dated 31/07/2018 has reviewed Policy decision on regularization of services of DRWs/Casual/Contingent/PTW etc. Workers in Government Establishments and State PSUs and Autonomous bodies including AMC/ NPs. And, according to that Memo. "Finance Department has issued instructions from time to time as given for regularization of services of DRWs/ Casual /Contingent / PTW etc. Workers on the next date of completion of 17 years / 15 years / 10 years of services. The memorandum are as follows:-

Sl.	Memo no.	Issues
1	No. F.10(2)-Fin(G)/05, dated 04-03-2006	Regularization of DRWs/Contingent etc. Workers on completion of 17 years of service as on 31.03.2005 allowing effect from 01.02.2006.
2	No. F.10(2)-Fin(G)/05, dated 22-02-2007	Regularization of DRWs/Casual/Contingent etc. Workers on completion of 15 years of service as on 31.03.2006 allowing effect as on 01.01.2007.
3	No. F.10(2)-Fin(G)/08 (Part), dated 01-09-2008	Regularization of DRWs/Casual/Contingent etc. workers on completion of 10 years of service as on 31-03-2008 allowing effect from 01.07.2008.
	No. F.10(2)-Fin(G)/08 (Part), dated 21-01-2009	Regularization of DRWs/Casual/Contingent etc. workers from the next date of completion of 10 years of service.
	No.F.34(3)-Fin(G)/2012 dated 04-09-2012	Regularization of etc. DRWs/Casual/Contingent etc. workers working in State PSUs and Autonomous bodies including AMC/NPs on completion of 10 years of service.
6	No.F.10(12)-FIN(G)/07(Part-1), dated, 07-11-2012	Engagement of PTWs etc. as DRWS (Group-D) working in different departments of the Government for 2/3/4 hours who were engaged on or prior to 31.03.2003 and have completed 10 years of services w.e.f. 01.12.2012.

2. Recently, the matter has been further reviewed. It has been observed that there are some shortcomings in these instructions for regularization of the services of DRWs/Casual/Contingent staff affecting institutional efficiency and individual productivity due to different reasons.

3. With a view to ensure transparent public employment policy for engagement of staff for such services, all the memorandums as mentioned above are repealed"

At present there are good numbers of DRW/Casual/Contingent workers etc. are engaged by the Government. On account of financial constraints, the State Government has not been in a position to provide them with regular service. Henceforth, there is no scope of regularisation of DRW/Casual/Contingent workers who are engaged with this Department more than 10 years w.e.f 01/12/2012.

From the above discussion, it can be said that after publication of the Memorandum dated 31/07/2018, further operation on any either of the either Memorandum dated 04-03-2006, dated 22-02-2007, dated 01-09-2008, dated 21-01-2009, dated 04-09-2012, & dated 07-11-2012 has been ceased.

Copy of the Memorandum No.10(2)-FIN(G)/2008(Part) dated 31/07/2018 is annexed hereto & marked as Annexure- R/1.

In the instant case the petitioners have not approached the Court within time. The writ petition was filed in the year 2025, 7 years after the repeal of the regularization scheme. Therefore, it is barred on grounds of delay and laches.

It is further submitted that since regularization scheme has been repealed on 01.08.2018, no relief should be granted in favour of the petitioners, otherwise it may open floodgates for all those persons who have been sleeping over their rights and did not approach the Court within time. Delay defeats rights and remedies both.

It is further submitted that, Department has complied with the Judgment dated 13/09/2024 delivered in WP(C) 410 of 2024 & WP(C) 411 of 2024 respectively without challenge the same before the Double Bench of the Hon'ble High Court. But, it doesn't mean Department should did the mistake repeatedly.

In Kerala State Electricity Board Vs. Sharat Chandran P. (2009), the Supreme Court held that Article 14 is a positive concept. It applies only where the parties are similarly situated. No equality can be climbed on the basis of an illegality.

Further, in Basawaraj Vs. Special Land Acquisition Officer, (2013), the Supreme Court has made it clear that "It is settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to bet the same relief as well. If a wrong has been committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner..... Even otherwise, Article 14 cannot be stretched too far otherwise it would make functioning of the administration impossible."

Further, in a more recent case in State of Odisha Vs. Anup Kumar Senapati (2019), it was observed after relying upon Basawaraj (supra) that there is no concept of negative equality under Article 14 of the Constitution. In case the person has a right, he has to be treated equally, but where right is not available, person cannot claim rights to be

treated equally as the right does not exist, negative equality when the right does not exist, cannot be claimed.

Above mentioned information was not incorporated by the Department earlier in the Counter Affidavit filed in WP(C) 410 of 2024 & WP(C) 411 of 2024 respectively for which Hon'ble High Court of Tripura has delivered its Judgment without consideration of the above facts & resulting Department has also abide by the decision of the Hon'ble High Court without challenge.

12. That, in response to the contents of paragraphs-27 to 29 of this writ petition, I humbly submit that this instant writ petition is devoid of any merits and the same to be dismissed in limine."

Finally, Learned Senior G.A. urged for dismissal of the writ petition. However, at the time of hearing, Learned Senior G.A. drawn the attention of the Court that the present petitioner is not in similarly situated condition like that Sibu Deb and as such, his service cannot be regularized in the Group-C post with effect from 01.01.2008.

4. I have heard both the sides and perused with the writ petition and the documents annexed with the writ petition as well as the counter affidavit and the documents annexed with the counter affidavit. It appears that in the year 2018 the Finance Department, Government of Tripura by a memorandum (Annexure-R/1) cancelled all the previous notification regarding regularization of services of DRW/Casual/Contingent workers in the Government establishments and State PSUs and by the said memorandum, the prospective was given for giving effect of the said memorandum. Prior to that, as already stated, the Government of Tripura by a memorandum dated 01.09.2008 (Annexure-5 supra) framed some guideline regarding services of DRW/Contingent/Casual Workers on completion of 10 years of service as on 31.03.2008. Here in the case at hand, the present petitioner was appointed to the post of Peon with effect from

01.01.2008, having 40% disability and said Sibbu Deb was regularized with effect from 01.01.2007 in the promotional post of the Work Assistant but the case of the petitioner was not considered. In the similar manner, other similarly situated two employees namely Anima Debnath and Aparajita Bhowmik were given the same benefit.

At the time of hearing, Learned Senior Counsel further submitted that the present petitioner at the time of appearing in Madhyamik examination did not obtain any 'No Objection Certificate' but since the petitioner was a Casual Worker almost daily rated basis, so, as per law she was not under legal obligation to obtain any 'No Objection Certificate' in this regard from the Department. So, the stand taken by the respondent-Department bears no legal basis and accordingly, the same stands discarded.

Even Annexure-R/1 also does not create any embargo to the case of the petitioner for her regularization and appointment to the post of Group-C with effect from the date of her initial engagement i.e. on 01.01.2008.

5. Thus, after hearing both the sides, it appears that the case of the present petitioner cannot be differentiated from the case of said Sibbu Deb, Anima Debnath [WP(C)/410/2024] and Aparajita Bhowmik [WP(C)/411/2024]. In view of the above, it appears to this Court that this is a fit case to grant relief in favour of the petitioner. Accordingly, the writ petition filed by the present petitioner is hereby allowed.

The respondent-authority be asked to consider the case of the petitioner for her appointment as a Group-C employee in accordance

with the existing rules for the post of Group-C within a period of 3(three) months from the date of receipt of the copy of this order.

With the above observation, this writ petition stands disposed of.

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

JUDGE

