

HIGH COURT OF TRIPURA

AGARTALA

WP(C) No.371 of 2025

Smt. Shila Rani Ghosh (Das) @ Shila Ghosh @ Shila Rani Ghosh
Wife of Late Dilip Das, Akhaura Road, Opposite side of Police Head Quarter,
Agartala, West Tripura, P.O. Agartala.

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

- Versus -

1. The State of Tripura,

Represented by its Secretary, Department of Social Welfare and Social Education, Government of Tripura, New Capital Complex, P.O. Kunjaban, Agartala, West Tripura.

2. The Director,

Department of Social Welfare and Social Education, Government of Tripura, Abhoynagar, Agartala, P.O. Abhoynagar.

3. The Principal Secretary,

Finance Department, Government of Tripura, New Capital Complex, Agartala, West Tripura.

4. Tripura State Social Welfare Board,

Represented by its Officer In-Charge, Ashray Bhavan, Gurkhabasti, Agartala, West Tripura, P.O. Kunjaban.

5. The Secretary,

Tripura State Social Welfare Board, Ashray Bhavan, Gurkhabasti, Agartala, West Tripura, P.O. Kunjaban.

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

For the Petitioner(s) : Ms. Rajasree Purkayastha, Advocate.

For the Respondent(s) : Mr. P. Gautam, Sr. G.A.

Date of hearing and date of
delivery of Judgment & Order : **9.03.2026**

Whether fit for reporting

YES	NO
	√

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Heard Ms. Rajasree Purkayastha, learned counsel for the petitioner and Mr. P. Gautam, learned senior Government Advocate for the respondents.

[2] The petitioner was initially engaged as contingent Clerk-cum-Typist on consolidated pay of Rs.700/- per month vide memorandum dated 11.07.1988 (Annexure-A). Later on her service was regularized to the post of Lower Division Clerk (for short, LDC) vide memorandum dated 27.09.2012 (Annexure-B) with effect from 21.09.2012. She went on retirement on attaining of 60 years of age on 31.07.2024. Now, it is her grievance that while releasing her pension, 50% of her period of service as rendered as contingent worker from the period from 11.07.1988 till 21.09.2012 were not taken into consideration. In this regard, she also sent an advocate notice to the respondents to which the respondent no.2 replied that her service as contingent worker from her initial appointment from 11.07.1988 till 12.12.2009 was not a continuous service as there was one day break in each spell of her engagement for 89 days.

[3] Ms. Rajasree Purkayastha, learned counsel for the petitioner submits that actually up to 12.12.2009, such artificial break of one day was given during her service as contingent worker and thereafter, the ban of such giving one day break was withdrawn by Government notification .

[4] In such circumstances, the petitioner has filed the present writ petition with following reliefs:

“1) ISSUE RULE, calling upon the respondents and each one of them to show cause as to why a Writ of Certiorari and/or in the nature there-of, shall not be issued, for quashing or setting aside the decision of the Respondents, communicated to the Petitioner under reply vide No. F.34(1148)-DSWE/LA/2025/8534(3) dated 14.03.2025 (**Annexure- F**) regretting the matter of counting of half of the tenure of service of the petitioner on consolidated pay on full time basis w.e.f. 11.07.1988 to 31.12.2009 (i.e. till her regularisation) for the purpose of calculating her qualifying service towards pension, for fair ends of justice.

II) ISSUE RULE, calling upon the respondents and each one of them, to show cause as to why Writ of Mandamus and/or in the nature, shall not be issued, for mandating/directing the respondents, for counting half of the tenure of service of the petitioner on consolidated pay on full time basis w.e.f. 11.07.1988 to 31.12.2009 for the purpose of calculating her qualifying service towards pension and thereby recalculate/ enhance her existing pension and pay the arrears accordingly with all consequential benefits and further recalculate retirement benefits of the petitioner with retrospective effect and make payment accordingly.

III) CALL FOR THE RECORDS appertaining to this petition;

IV) COSTS of and incidental to this proceeding"

[5] Learned senior Government Advocate, Mr. P. Gautam, referring to the contents of the counter-affidavit submitted by the State-respondents, contends that her previous service rendered as Clerk-cum-Typist on contingent basis was not taken into consideration for extending her the pensionary benefits, as there was one day break in each spell of her service after every 89 days during said period up to 12.12.2009. On that ground, learned senior Government Advocate has prayed for dismissal of the present writ petition.

[6] Court has considered the submissions of both sides. It appears that the issue is already determined and covered by the decision of division Bench of this Court in case of **the State of Tripura and others versus Smt. Mina Deb [WA No.80 of 2025]** decided on 19.01.2026 as relied on by learned counsel for the petitioner, Ms. Rajasree Purkayastha.

[7] The above said writ appeal arose out of a decision of a coordinate Bench of this Court dated 10.03.2025 passed in WP(C) No.633 of 2024 in between said **Smt. Mina Deb versus the State of Tripura and others**. In said case also like the present petitioner, said Smt. Mina Deb joined Tripura State Social Welfare Advisory Board in the post of

contingent Clerk-cum-Typist on 30.12.1987 and went on retirement on 31.01.2020. But prior to her retirement, her service was regularized vide memorandum dated 24.01.2011 and 50% of her service rendered by her as contingent clerk was not taken into consideration. Finally, learned Single Bench observed that one day break in every spell of 89 days working as contingent worker was not proper. Learned Bench also relies on the decisions of Hon'ble the Supreme Court in cases of (i) **Ahalya A. Samtaney versus State of Maharashtra and others [(2018) 9 SCC 92]** and (ii) **Prem Singh versus the State of Uttar Pradesh and others [(2019) 10 SCC 516]**. Finally, direction was given by said learned Court to the respondents to take into account the 50% of the service rendered by said petitioner as contingent worker and to determine her entitlement to her retirement benefits in accordance with law. The said judgment was challenged before the division Bench of this Court in above said WA No.80/2025 which was dismissed by the Court vide judgment dated 19.01.2026 affirming the decision of the single Bench in this regard. It is also observed by the division Bench that when an employee like the respondent has been made to work as a contingent Clerk-cum-Typist till she was made a Lower Division Clerk by giving artificial breaks in every 89 days, it has to be inferred that the so called artificial break was given deliberately by misusing the appellants' powers, and exploiting the respondent and such artificial breaks in service have therefore to be ignored.

[8] By the above said earlier decisions of the coordinate Bench and also of the division Bench of this Court in above said cases, the challenges made by the respondents are already settled.

[9] In view of the above, the instant writ petition is allowed. The respondents are directed to extend the benefit of 50% of the service of the petitioner rendered as contingent Clerk-cum-Typist from 11.07.1988 till her regularization to the post of LDC with effect from 21.09.2012 for the purpose of computing her post retiral benefits and to release such benefits accordingly. Arrears, if any, will be paid within 10(ten) weeks from the date of receipt of a copy of this order along with interest at the rate of 7% per annum thereupon from the date when such arrears fell due.

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

JUDGE



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