

**HIGH COURT OF TRIPURA
AGARTALA**

WA 91 of 2022

1. The State of Tripura, (To be represented by the Principal Secretary, Department of Finance, Government of Tripura), New Secretariat Complex, New Capital Complex, Kunjaban, PS: New Capital Complex, Agartala, West Tripura, PIN: 799010
 2. The Chief Secretary, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, PS: New Capital Complex, Agartala, West Tripura, PIN: 799010
 3. The Secretary, Department of Law, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, PS: New Capital Complex, Agartala, West Tripura, PIN: 799010
- Appellants

V E R S U S

1. Sri Samaresh Paul, son of late Sarat Chandra Paul, resident of Ramnagar Road No.3, Agartala, West Tripura, PS: West Agartala, District: West Tripura
2. Smt. Sikha Deb, wife of Sri Bibhuti Ranjan Chowdhury, resident of Ramnagar, Road No. 1, PS: West Agartala, District-West Tripura
3. Sri Jishnu Prasad Chakraborty, son of late Jitendra Chandra Chakraborty, resident of Bardowali, PS: West Agartala, District: West Tripura
4. Sri Dipak Datta Chowdhury, son of late Sudhir Chandra Datta Chowdhury, resident of Village: Kalikapur, PS: West Agartala, District: West Tripura
5. Smt. Sukla Goswami, wife of Sri Subrata Chakraborty, resident of Mantri Bari Road, Agartala, PS: West Agartala, District: West Tripura,
6. Sri Madhu Sudhan Paul, son of late Barada Kanta Paul, resident of Dhaleshwar, PS: East Agartala, District: West Tripura, PIN: 799001
7. Smt. Uma Bhowmik, wife of late Satish Chandra Bhowmik, resident of Aralia, PS: East Agartala, District: West Tripura
8. Sri Jyotsnamoy Sengupta, son of late Jatindra Kumar Sengupta, resident of Ramnagar, Road No.5, PS: West Agartala, District: West Tripura
9. Sri Ranjit Chowdhury, son of late Suresh Chandra Chowdhury, resident of Ramnagar, Road No. 4, Agartala, West Tripura, PIN: 799002

.....**Respondents**

10. The Hon'ble High Court of Tripura, to be represented by the Registrar General, Ho"ble High Court of Tripura, Lichu Bagan, PS: Kunjaban, Agartala, West Tripura, PIN: 799006
11. The Registrar General, Hon'ble High Court of Tripura, Lichu Bagan, PS: Kunjaban, Agartala, West Tripura, PIN: 799006
12. The District & Sessions Judge, West Tripura, Agartala, PIN: 799001
13. The District & Sessions Judge, Unakoti Judicial District, Kailashahar, Tripura

14. The District & Sessions Judge, North Judicial District, Dharmanagar, Tripura
 15. The District & Sessions Judge, South Tripura Judicial District, Belonia, Tripura
 16. The District & Sessions Judge, Gomati Tripura Judicial District, Udaipur, Tripura
 17. The District & Sessions Judge, Sepahijala Judicial District, Sonamura, Tripura
 18. The District & Sessions Judge, Khowai Tripura Judicial District, Khowai, Tripura
 19. The District & Sessions Judge, Dhalai Tripura Judicial District, Ambassa, Tripura
- Proforma Respondent

For Appellant(s) : Mr. S.M. Chakraborty, Advocate General,
Mr. Dipankar Sarma, Addl. G.A.,
Ms. Pinki Chakraborty, Advocate.

For Respondent(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Dhrubajyoti Saha, Advocate.

Date of hearing : 21.01.2026.

Date of pronouncement : 11.02.2026.

Whether fit for reporting : YES.

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

JUDGMENT & ORDER

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

This Writ Appeal is preferred by the State of Tripura, rep.by its Chief Secretary and Secretary, Department of Law challenging the judgment dated 03.02.2021 in WP(C) 558/2019 passed by the learned Single Judge.

2. The respondent Nos. 1 to 9 in the Writ Appeal are the petitioners in the Writ petition No. 558/2019.

3. They were all employed in the District Courts in various capacities in the West Tripura District and had retired on various dates from 30.11.2007 to 31.05.2010 as either Head Clerk or Sr. Sheristadar or Sheristadar.

4. Pursuant to orders dt.17.12.1997 and 7.1.1998 passed by the Supreme Court, a Commission headed by Justice Jagannath Shetty (for short '*the Shetty Commission*') had been appointed to examine the service conditions of Judges of the Subordinate Courts and also court staff employed in the said Courts in each state/Union Territory and submit report to the Supreme Court about the steps to be taken by the State/Union Territory for improvement of their service conditions.

5. The said Commission, as regards service conditions of Judges of the Subordinate Courts, had filed its report in 1999 and it was made effective from 01.07.1996.

6. It also made its recommendations to the Supreme Court with regard to members of the Subordinate Courts' staff in a report dt.31.3.2003.

7. This report was submitted to the Supreme Court and the Supreme Court on 15.7.2008 in *All India Judges' Association and Others Vs. Union of India and Others*¹ directed in IA No.226 of 2008 that the date for implementation of the recommendations of the Shetty Commission with regard to members of the Subordinate Court staff would be 01.04.2003.

8. In the same order, it had noted, while dealing with IA No. 71A, 135-136, 137-138 & 142, that the Shetty Commission's report with regard to the staff of the Subordinate Courts had been submitted on 31.03.2003 and the Supreme Court had been giving repeated directions to implement the said directions, but most of the States had not complied with the same taking the plea that they are short of funds. The Supreme Court rejected the said plea observing that by implementing the said recommendations, the State Governments will not have to

¹ Order dt.15.7.2008 in IA Nos. 71A, 135-136, 137-138 & 142 & 226 of 2008 in WP(C)No.1022 of 1989 (SC)

incur heavy financial burden as only reasonable recommendations had been made in the report and the States and Union Territories can look into these recommendations and take a proper decision at the earliest, at least within three months from that date.

9. It directed that the States and Union Territories should file affidavits indicating the latest status on or before 20.10.2008 and the Registrar Generals of the concerned High Courts shall hold discussions with the State Governments and Union Territories in regard to implementation of the recommendations of the Shetty Commission and take a final decision in the matter. It was noted that no further time would be granted to implement the recommendations of the Shetty Commission.

10. There was a subsequent order(Annexure R-14) also passed by the Supreme Court on 07.10.2009². In that order also the Supreme Court noted that several States and Union Territories had not implemented the recommendations fully and though some States had implemented the recommendations they had given effect to the same from a date later than 01.04.2003 and there were certain grievances of officers still subsisting. It therefore directed that thereafter, those matters would be considered by the respective High Courts of the States/Union Territories. It directed that the various High Courts' on judicial/administrative side will ensure implementation of the recommendations of the Shetty Commission within a reasonable period of one year, that the High Court shall permit Writ Petitions or applications that may be filed by individual or Staff Association representing various members of the staff, and the High Courts' shall also see that the recommendations are implemented w.e.f. 01.04.2003. The

² Order dt.7.10.2009 in IA Nos. 71A, 135-136, 137-138 & 142 & 226 of 2008 in WP(C)No.1022 of 1989 (SC)

Supreme Court also directed that there shall be benefit of one advance increment on the existing pay-scale instead of the initial pay-scale, and in States where the said benefits had not been extended to the members of the staff, the High Court should also see that those recommendations are implemented.

11. Thus, it is not in dispute that the recommendations of the Shetty Commission with regard to staff of Subordinate Courts, which had been accepted by the Supreme Court, had to be implemented w.e.f.1.4.2003 as per the above orders of the Supreme Court by all the State Governments including the State of Tripura.

12. One such recommendation of the Shetty Commission was in relation to upgradation of the different categories of posts of the staff of Subordinate courts.

In it's report at pg.245 (extracted at para 32 of the learned single judge's impugned judgment) it stated that the post of Head clerk in the Court of Civil Judge (Jr.Div) is to be re-designated as Sheristedar with pay scale Rs.5000-10300 and the post of Head clerk in the Court of Civil Judge (Sr.Div) is to be re-designated as Senior Sheristedar with pay scale Rs.7450-13000/-. It noted that the post of Chief Administrative Officer of the District Court was a promotional post, and so it directed:

- (i) that the existing pay scale of Accounts Officer in Principal District Court of West Tripura be raised to Rs. 7800-275-10000-300-15100/-(Sl.No.14 in the General Pay Scale); and
- (ii) the post of Senior Sheristedar in North Tripura and South Tripura be upgraded to the posts of Accounts Officer in the pay scale of rs.7800-175-10000-300-15100.

The first notification dt.2.1.2012 issued by Department of Finance, Govt. of Tripura

13. The State of Tripura however issued a notification dt. 02.01.2012 through its Deputy Secretary in the Finance Department notifying that various recommendations of the Shetty Commission in respect of the Subordinate Courts including post creation/upgradation would be effective *prospectively* and *other benefits* would be given from 01.10.2010. The said notification dt.2.1.2012 reads:

*“The Council of Ministers in its meeting held on 2.8.2011 had decided to implement the judgment dt.15.7.2008 and dt.7.10.2009 of the Hon’ble Supreme Court in IA Nos. 71A, 135-136, 137-138 & 142 & 226 of 2008 in WP(C) No. 1022 of 1989 (SC)(**All India Judges’ Association and Others Vs. Union of India and Others**) following the various recommendations of Shetty Commission in respect of subordinate Courts staff subject to modification that posts creation /upgradation shall be with prospective effect and other benefits shall be given with effect from 1.10.2010 in view of financial conditions”.*

(emphasis supplied)

14. Thus in spite of the Supreme Court specifically directing implementation of Shetty Commission recommendations (including upgradation of posts) w.e.f.1.4.2003, the State Government decided to modify the date unilaterally, without permission of the Supreme Court, and decided that creation/upgradation would be from 2.1.2012 prospectively and other benefits would be implemented w.e.f.1.10.2010. This action of the State Government was a gross violation and disobedience of the Supreme Court orders in **All India Judges’ Association and Others Vs. Union of India and Others** Case (1 and 2 supra).

WP(C) 331/2012 and the decision dt.31.7.2014 therein

15. This was questioned by the respondent Nos. 1 to 9 herein in WP(C) 331/2012.

The second notification dt.23.5.2014 issued by Department of Finance, Govt. of Tripura

16. After filing of said Writ Petition, the Advocate General for the State of Tripura produced another notification dt.23.05.2014 modifying the notification dated 02.01.2012. This notification dt.23.5.2014 stated as under:

“ Earlier decision regarding implementation of the judgment dt.15.7.2008 and 7.10.2009 of the Hon’ble Supreme Court in IA Nos. 71A, 135-136, 137-138 & 142 & 226 of 2008 in WP(C) No. 1022 of 1989 (SC)(All India Judges’ Association and Others Vs. Union of India and Others) following the various recommendations of Shetty Commission in respect of subordinate Courts staff communicated vide this department earlier notification of even number dt.2.1.2012 has been reviewed and it has been decided to give the benefits with effect from 1st April, 2003.”(emphasis supplied)

17. Thus said notification dt.23.05.2014 stated that the previous decision for implementation of the judgment of the Supreme Court in relation to recommendations of the Shetty Commission for the Subordinate Courts’ staff communicated by the notification dt. 02.01.2012 had been reviewed and it was decided to give the benefits w.e.f. 01.04.2003.

18. Referring to this notification, WP(C) 331/2012 filed by the respondent Nos. 1 to 9 was disposed of by this Court on 31.7.2014, but liberty was given to the respondent Nos. 1 to 9 (the petitioners therein) to approach this court if they are affected prejudicially by the notification dt. 23.05.2014.

The third notification dt.10.9.2015 issued by Department of Finance, Govt. of Tripura

19. After the said Writ Petition was disposed of, another notification dt. 10.09.2015 was issued by the Finance Department of the Government of Tripura. It stated:

“..... that benefits shall be provided to the staff of the subordinate Courts under a modified revised pay structure w.e.f. 01.01.2006 under the Tripura State Civil Services (Revised Pay) (12th Amendment) Rules, 2015 over the benefits already allowed w.e.f. 01.04.2003 as per the recommendations of the Shetty Commission. The pay scale/structure of different categories of posts/upgraded posts as on 01.04.2003 as recommended by the Shetty Commission along with revised pay scale/structure of posts w.e.f. 01.01.2006 in respect of staff of subordinate Courts is given in a tabular form as below....”(emphasis supplied)

20. This notification dealt with revision of pay essentially and not with date of creation/ upgradation of posts.

21. One advance increment to all categories of retired employees of the subordinate Courts including respondent Nos. 1 to 9 and serving employees of the subordinate Courts was however granted w.e.f. 01.04.2003, but the upgradation of the different categories of posts of the staff of Subordinate Courts was not done.

22. We may point out that on 10.02.2014 in fact a memorandum had been issued by the Law Department of the Government of Tripura conveying the sanction of the Governor of Tripura to the proposal for upgradation of 144 different categories of posts for the judgeships of the West, South and North Tripura Judicial Districts towards implementation of the judgment of the Supreme Court in *All India Judges' Association* case (1 and 2 supra) following the

recommendations of the Shetty Commission, but the date from which such upgradation would be done was not indicated therein.

23. The respondent Nos. 1 to 9 got issued a legal notice dt. 10.12.2018 which was forwarded by the Secretary, Law Department to the District and Sessions Judges of the various Districts and certain replies were given thereto.

24. In one such reply dt.26.11.2018 given by the District & Sessions Judge, West Tripura District to the counsel for the respondent Nos. 1 to 9 there was a reference to the above two notifications and the Memorandum of the Law Department and it was stated that in a DPC meeting held on 06.03.2015 and 09.03.2015 it was unanimously decided to give effect of the benefits of the recommendations of the Shetty Commission to different grades of employees of the Subordinate Courts w.e.f. 01.04.2003 till 30.06.2015, and that with reference to the Minutes of the said DPC meeting, the High Court of Tripura in a communication dt. 15.6.2015 had observed that the benefits in respect of creation/upgradation of post has to be with effect from the date of the respective notifications, since there is no retrospective effect of the same, and the matter was again sent to the DPC for consideration.

WP(C) 558/2019

25. Alleging that this process is illegal, unconstitutional, arbitrary and unreasonable the respondent Nos. 1 to 9 filed WP(C) 558/2019 in this court.

The stand of appellants in the Writ Petition

26. The appellants filed a counter affidavit thereto supporting their decision.

27. According to them, in the notification dt. 02.01.2012 , it was indicated that the Shetty Commission recommendations pertaining to the creation of posts/upgradation of posts in respect of subordinate Courts staffs would be implemented *prospectively* and other benefits would be given w.e.f. 01.10.2010; and thereafter, in the notification dated 23.05.2014 the earlier notification dt. 02.01.2012 was reviewed and it was decided to give benefits from 01.04.2003, but *in so far as upgradation of posts is concerned, since there was no indication in the notification dt. 23.05.2014, the same would be on prospective basis as indicated in the notification dt. 02.01.2012.*

28. Reference is made to another order of the Supreme Court dt. 26.03.2015 in ***All India Judges' Association*** case³ and it is contended that there is no direction therein regarding retrospective upgradation of posts and so the notification dt. 10.09.2015 was correct.

29. It is asserted that the respondent Nos. 1 to 9 had misread the notification dt. 10.09.2015. While admitting that the Law Department had issued the memorandum dt.10.02.2014 recommending upgradation of posts, it is stated that the said proposal had been concurred prospectively only in the notification dt. 10.09.2015. They contended that the respondent Nos. 1 to 9 had no justification to claim retrospective upgradation of the various posts of Subordinate Courts as the same was not covered under the Shetty Commission recommendations and only enhanced pay scale was to be given w.e.f. 01.04.2003 and it had been given to them. It is also stated that even the High Court on 15.6.2015 had held that upgradation of posts would only be prospective in operation and it cannot be given retrospectively.

³ Order dt.16.3.2015 in IA No.297 of 2012 in IA No.71-A in WP © No.1622 of 1989 and IA No.329 of 2014 therein along with Civil Appeal No.2943 of 2015

The stand of the High Court of Tripura

30. The High Court of Tripura took a stand that there was no retrospective operation extended to upgradation or creation of posts and stated that the Minutes of the DPC held on 6th and 9th March, 2015 were placed before the then Chief Justice and a detailed clarification was sought by the DPC and certain clarifications were given by the District Judges who were members of the DPC through a letter dt. 30.04.2015 and the Chief Justice considered those clarifications and opined on 15.6.2015 that upgradation or newly created posts will have no retrospective operation and the DPC will consider the promotions afresh. According to them, the Registrar (Vigilance) had issued a letter dt.15.6.2015 to this effect.

The impugned Judgment of learned single Judge

31. Learned Single Judge in the impugned judgment dt. 03.02.2021 in WP(C)558/2019 rejected the stand of the appellants.

32. The learned Single Judge framed the following questions:

“1. Whether the Shetty Commission had recommended retrospective operation of upgradation/creation of the new posts and whether by the orders dated 15.07.2008 and 07.10.2009 as referred before, the apex court had accepted such recommendation, if any, or had directed to implement such recommendation w.e.f. 01.04.2003 and

2. Whether by the notification dated 23.05.2014 Annexure 1 to the writ petition, the Govt. of Tripura in the Finance Department has decided to give the retrospective effect of upgradation/creation of new posts in terms of the recommendation on the Shetty Commission w.e.f. 01.04.2003 or whether by the notification dated 10.09.2015 (Annexure 3 to the writ petition) any

decision was communicated in respect of retrospective operation of upgradation /creation of the posts.

3. *Whether the Shetty Commission had recommended retrospective operation of upgradation/creation of the new posts and whether by the orders dated 15.07.2008 and 07.10.2009 as referred before, the apex court had accepted such recommendation, if any, or had directed to implement such recommendation w.e.f. 01.04.2003.”*

33. As regards the *first* and *third* question, the learned Single Judge reproduced in para 32 of his judgment, the recommendation of the Shetty Commission in respect of the upgradation of pay scale *and* upgradation of posts (at page 245 and 246 of the Shetty Commission's report), and noted that the Shetty Commission had clearly recommended for upgradation of scale *and* upgradation of posts, and it had only recommended that the post of Sr. Sheristadar of North Tripura and South Tripura districts be upgraded to the post of Accounts Officers in the pay scale of Rs.7,800-15,100/-. For obvious reasons, in the recommendations, there was no specific observation to give retrospective effect.

He held that the Supreme Court in the ***All India Judges' Association case*** (1 and 2 supra) had directed that the recommendations be implemented from 01.04.2003 and since the recommendations included a recommendation for upgradation of posts also, the same cannot be ignored.

He also noted that the posts were not created by the State Government w.e.f. 01.04.2003, but they were created prospectively and so the respondent Nos. 1 to 9 cannot be considered for promotion to those posts retrospectively or on a date prior to their retirement.

34. On the *second* question, the learned single Judge held that the notification dt. 02.01.2012 provided for benefits to be given from 01.10.2010 but the same was reviewed, and in the notification dt. 23.05.2014, the “benefits” were decided to be given w.e.f. 01.04.2003, but upgradation/creation of posts remained to be prospective. He however noticed that the Supreme Court’s order to implement the recommendations w.e.f. 01.04.2003 had not been complied with by the appellants and they are under obligation to upgrade the posts w.e.f. 01.04.2003 but they did not do so. He noted that the Supreme Court had already rejected the plea of financial constraints pleaded by the State Government in those orders.

35. The learned single judge therefore allowed the Writ Petition filed by respondents 1 to 9. He directed the appellants to upgrade or create posts as per recommendation of the Shetty Commission w.e.f 01.04.2003 and granted three months time to the appellants to do so. He also stated that whether promotion would be given retrospectively or not would be decided by the appointing authority and it was open to the respondent Nos. 1 to 9 to represent before the appointing authority urging for their promotion retrospectively.

The instant Writ Appeal

36. Challenging the same, this Writ Appeal has been filed by the State of Tripura and others.

37. Learned Advocate General appearing for the appellant sought to contend that the learned Single Judge erred in granting relief of upgradation/creation of posts w.e.f. 01.04.2003 and that the appellants cannot be compelled to do so with effect from the said date in view of the decisions taken by them in the notification dt. 02.01.2012 and dt. 23.05.2014.

38. He however did not dispute that in the two orders passed by the Supreme Court on 15.07.2008 in IA 226/2008, and on 07.10.2009 in IA 71A, 135-136, 137-138 and 142 in WP(C) No. 1022/1989 specifically the Supreme Court had fixed the date of implementation of the recommendations of the Shetty Commission's report w.e.f. 01.04.2003.

39. He also did not dispute that the State of Tripura has never sought a modification of the above orders of the Supreme Court by filing any application in the Supreme Court seeking postponement of the date of implementation of the Shetty Commission report w.r.t staff of Subordinate Courts from 1.4.2003 to a later date.

40. Without such modification /permission from the Supreme Court, it is clear that date of implementation of upgradation/creation of posts was changed by State of Tripura from 1.4.2003 to 1.10.2010, which is impermissible.

41. The mention in the notification dt. 02.01.2012 by the State of Tripura of the decision of the Council of Ministers taken on 02.08.2011 that they would implement the judgment of the Supreme Court subject to *modification* that the posts creation/upgradation would be a *prospective effect*, and other benefits would be given from 01.10.2010 in view of the financial constraints, cannot be countenanced because the State Governments or its Council of Ministers cannot alter the decision of the Supreme Court. They are bound by the directions issued by the Supreme Court under Article 141 of the Constitution of India and they would be in contempt of the said orders of the Supreme Court if they implement the same from a different date other than the one directed by the Supreme Court.

42. As rightly noted by the learned Single Judge in para 32 of the judgment, the Shetty Commission in its recommendation given on 31.03.2003

clearly directed upgradation of posts as mentioned therein for the staff of the Subordinate Courts. This is part of the recommendation of the Shetty Commission which the Supreme Court had directed implementation from 01.04.2003.

43. It was therefore not open to the State Government to split up the judgment of the Supreme Court on its own by giving 01.04.2003 as the date of paying the advance increment, but postponing the date of upgradation of posts as was done in the notification dated 02.01.2012 to 01.10.2010, more so, when the plea of financial constraint had already been rejected by the Supreme Court.

44. It appears the State Government arrogated to itself power to alter the orders of the Supreme Court in the *All India Judges' Association* case (1 and 2 supra) and acted willfully in violation of the same. We strongly deprecate this conduct on the part of the appellants.

45. Moreover, the notification dt. 02.01.2012 was undoubtedly reviewed and modified in the notification dt. 23.05.2014, but the interpretation placed on the same by the appellants is that the decision regarding upgradation of posts was not changed from what was taken in the notification dt. 02.01.2012 in the notification dt. 23.05.2014, and that only with regard to other 'benefits', it was changed to 1.4.2003.

46. Such interpretation cannot be accepted for the aforesaid reason that the appellants cannot fix the date of implementation of recommendations of the Shetty Commission contrary to the orders of the Supreme Court.

47. We are also of the opinion that the High Court in its decision dt. 15.06.2015 (of the then Chief Justice), while stating that the benefits in respect of creation/upgradation of posts have to be with effect from the date of notification

and not retrospectively w.e.f.1.4.2003, had not properly considered the orders passed by the Supreme Court in the *All India Judges' Association* case (supra 1 and 2) referred to above. It was not open to the High Court of Tripura on the administrative side to take such a decision contrary to the judgment of the Supreme Court.

48. We have also perused the judgment dt. 16.03.2015 of the Supreme Court in *All India Judges Association* case (3 supra) , but in that judgment the discussion was confined to the question as to which pay structure should be given to the employees of the subordinate Courts and the said judgment did not deal with the question from which date of upgradation of posts for the staff in the Subordinate Courts. So appellants cannot place any reliance on the same.

49. We therefore do not find any merit in this appeal, which is accordingly dismissed with costs of Rs.10,000/- to be paid by appellants to each of the respondent Nos. 1 to 9 within eight weeks.

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

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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