

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.104 of 2024

1. Shri Pradip Debbarma, S/o Shri Jamini Debbarma of village Ramnath Thakur Para, PO- Jonmejoy Nagar, PS- Radhapur, District- West Tripura
2. Shri Moyal Hossasin, S/o Late Abdul Hasem of village Ashabari, PO- Boxanagar, PS- Kalamchoura, District- Sepahijala, Tripura
3. Shri Kanai Lal Das, S/o Shri Sudhan Chadra Das, Village and PO- Veluarchar, PS- Kalamchoura, District- Sepahijala, Tripura

.....Appellant(s);

Versus

1. The State of Tripura represented by the Chief Secretary, Government of Tripura, New Secretariat Building, PO and PS- NCC Agartala, West Tripura- 799010
2. The Secretary, Education Department, Government of Tripura, New Secretariat Building, PO and PS- NCC Agartala, West Tripura-799010
3. The Director, Directorate of Secondary Education, Government of Tripura, PO- Agartala, PS- West Agartala, District- West Tripura, 799001
4. The Director, Directorate of Elementary Education, Government of Tripura, PO- Agartala, PS- West Agartala, District- West Tripura, 799001

.....Respondent(s)

For Appellant(s) : Mr. Bibhal Nandi Majumder, Sr. Advocate,
Mr. Mintu Debbarma, Advocate,
Mr. Elembrok Debbarma, Advocate.

For Respondent(s) : Mr. Saktimoy Chakraborti, Advocate General,
Mr. Mangal Debbarma, Addl. G.A.,
Mrs. Pinki Chakraborty, Advocate.

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

Date of hearing : **23.02.2026**
Date of Judgment & Order : **23.02.2026**
Whether Fit for Reporting : **YES**

JUDGMENT & ORDER (ORAL)

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

1) This Writ Appeal arises out of the judgment dt.25.07.2024 of the learned Single Judge in WP(C) No.507/2024.

2) The appellants are Post Graduate Teachers who got selected pursuant to advertisement issued on 23.09.2009 by the Directorate of School Education, Government of Tripura.

3) Their appointment was made on 15.07.2010, and they joined on 26.08.2010.

The 2014 judgment of the High Court in ‘Tanmoy Nath and others’

4) Prior thereto in the early part of the year 2010, a batch of Writ Petitions had been filed in this Court challenging an Employment Policy issued on 30.08.2003 by the then Government of Tripura.

5) It was the said policy which was also in vogue when the advertisement dt.23.09.2009 was issued inviting applications for Post Graduate Teachers in response to which, the appellants had applied and were given appointment.

6) A Division Bench of this Court considered the validity of the Employment Policy dt.30.08.2003 and the appointments made to the post of Post Graduate Teachers, Graduate Teachers, etc. pursuant thereto.

7) The Division Bench vide judgment dt.07.05.2014 reported in ***Tanmoy Nath and Others v. State of Tripura & Others***¹ (for short ‘*Tanmoy Nath*’ case) struck down the revised Employment Policy *inter alia* on the ground of lack of guidelines prescribed therein, and on other grounds in a detailed judgment.

The Division Bench in ‘*Tanmoy Nath*’ held that the selections made pursuant to the said policy were unfair, were not made in a transparent manner, and most of the clauses of the policy are illegal and unconstitutional.

¹ (2014) 2 Tripura Law Reports 731

It also held in para 121 of the said judgment that the entire policy was bad because it gave no guidelines, and therefore entire selections made pursuant thereto are set aside including the selection of appellants/PGTs made pursuant to the advertisement dt.23.09.2009 .

It however directed in para 122 that teachers whose selections have been set aside, shall continue to function in their present place of posting till 31.12.2014 i.e. the end of the academic session of that year.

In paragraph 123, the Bench observed that the State must complete a fresh process of selection of teachers in all categories on or before 31.12.2014 by framing a new Employment Policy within two months from the date of its judgment, and should carry out selections in accordance with the fresh policy as early as possible, and not later than 31.12.2014.

In paragraph 124, certain directions were given as to how the process should be done.

Curiously in paragraph 127, it is stated as under:

“Since we have set aside the revised employment policy which applies to a large category of posts and not merely to teachers, we would like to make it clear that our judgment shall be prospective in nature and shall not affect the appointments already made unless the said appointments are already under challenge before the Court on the ground that the employment policy is illegal.”

8) Probably it was not noticed by the Court that the High Court had no power to make its judgments prospective in nature, and only the Supreme Court has such a power of prospective overruling as held by the Constitution

Bench judgment of the Supreme Court in *Golak Nath and Others v. State of Punjab & Another*².

The Supreme Court judgment in 2017

9) The Judgment of the Division Bench in *Tanmoy Nath* was challenged in the Supreme Court of India by the State of Tripura in Special Leave to Appeal (C) No(s).18993-19049/2014³ (*State of Tripura v. Tanmoy Nath and others*).

10) The said case titled was decided on 29.03.2017.

While holding that it did not find any ground to interfere with the order passed by this Court in *Tanmoy Nath* (1 supra), the Supreme Court held as under:

“Since we do not find any ground to interfere with the impugned order, the directions in para 123 now required to be suitably modified. We, therefore, direct:

(a) New Employment Policy should be framed by the State by 30th April, 2017 if not already framed and advertisements for filling up the vacancies may be issued latest by 31st May, 2017.

(b) The fresh selection process be completed on or before 31st December, 2017 and till the fresh process is completed, the teachers already appointed shall continue.

(c) The candidates who participated in the selection process pursuant to the advertisements in question, whether selected or not, will be allowed to participate in the fresh selection process by relaxing their age but subject to their having necessary qualifications.

(d) The qualifications in the case of teachers governed by the provisions of the Right of Children to Free and Compulsory

² AIR 1967 SC 1643

³ State of Tripura v. Tanmoy Nath and others ... Judgment dt.29.03.2017 in Special Leave to Appeal (C) No(s).18993-19049/2014

Education Act, 2009 shall be in conformity with the relevant statutory provisions of the said Act.

(e) The qualifications of teachers employed for Classes IX and above shall be strictly in compliance with the relevant provisions concerning such appointments.

Subject to the aforesaid modifications, the view taken by the High Court in the impugned order is affirmed and the special leave petitions are dismissed.”

11) After the judgment was pronounced by the High Court, which permitted the services of the appellants to continue till 31.12.2014, it appears that the services of the appellants were also terminated, but after the Supreme Court delivered its judgment in *State of Tripura* (3 supra) on 29.03.2017, the State Government issued a memorandum on 23.12.2017 re-appointing the appellants and others as Post Graduate Teachers on ad-hoc basis with effect from 01.01.2018 for a period of six months on existing pay scale plus other allowances and entitlements admissible as per rules.

12) This arrangement continued till 31.03.2020, and vide a Memorandum dt.31.03.2020, their services were terminated.

WP(C) No.334/2021 and the order therein

13) The appellants then filed WP(C) No.334/2021 in this Court contending that there was a violation of principles of natural justice, and they had not been given any show cause notice before termination of their appointment.

14) A learned Single Judge allowed the Writ Petition holding that the Memorandum dt.31.03.2020 terminating the services of the appellants was not a speaking order, that it was an omnibus communication, and so he set it aside giving liberty to the respondents to pass a reasoned and specific order in

relation to the petitioners/appellants herein. It was further directed that if the petitioners are aggrieved by the said decision, they can avail remedies under law.

The order dt.02.05.2024 by the Directorate of Secondary Education

15) Thereafter on 02.05.2024, a detailed reasoned order was issued by the Directorate of Secondary Education, Government of Tripura rejecting the representation filed by the appellants, and confirming the termination of their services as per the Memorandum dt.31.03.2020.

16) The main reason assigned therein was that the judgment of the Supreme Court in *State of Tripura* (3 supra) was clear and unambiguous in its declaration that the Employment Policy of 2003 and all the selections made thereunder are illegal and unconstitutional; that the judgment of the Supreme Court applies to all appointments made under the said policy irrespective of individual circumstances including the appellants; the memorandum dt.23.12.2017 issued by the Directorate of Secondary Education, Tripura was to comply with the binding decisions of the High Court of Tripura and the Supreme Court of India; the appellants had not challenged the validity of the Supreme Court judgment or the State's obligation to comply with it; their appointments were vitiated from the very inception which resulted in the issuance of orders for termination of their services, and so principles of natural justice were not violated; their continuance was only in view of the observation of the Supreme Court to continue them in service till fresh appointments are made as per clause (b) of the order dt.29.03.2017 of the Supreme Court referred to in *State of Tripura* (3 supra).

WP(C) No.507/2024

17) Questioning this, the appellants filed WP(C) No.507/2024 before this Court.

18) The said Writ Petition was dismissed with cost of Rs.50,000/-.

19) In the said judgment of the learned Single Judge, there is also a reference to a Full Bench judgment titled ***Sri Pranab Deb v. The State of Tripura & Others***⁴. The learned Single Judge held that the order passed on 02.05.2024 impugned in the Writ Petition, cannot be said to be a non-speaking order because the said order refers to all the previous orders passed by different Courts, and reiterated the order of termination passed on 31.03.2020. Other reasons were also assigned in the impugned judgment by the learned Single Judge.

20) Challenging the same, this Writ Appeal is preferred by the appellants.

Consideration by the Court

The Full bench Decision in Sri Pranab Deb (4 supra)

21) We shall first advert to the Full bench decision in ***Sri Pranab Deb*** (4 supra) where the Full Bench sought to resolve the conflict between the order dt.03.05.2023 in WP(C) No.334/2021 (which had been filed by the appellants) and an order in WP(C) No.893/2022 passed by another learned Single Judge on 30.05.2023, who did not agree with the order in WP(C) No.334/2021.

22) The Full Bench in ***Sri Pranab Deb*** (4 supra) had held that the issue of legality of the appointments undertaken under the advertisement of

⁴ rendered on 26.09.2023 in WP(C) No.893/2022

23.09.2009 in terms of the revised Employed Policy of 2003, had attained finality by virtue of the judgment rendered by the Supreme Court on 29.03.2017 (3 supra) whereby the decision of the Division Bench of this Court rendered on 07.05.2014 in the case of **Tanmoy Nath** (1 supra), had been affirmed.

The Full Bench noted that Ad-hoc extensions had been granted to teachers like the petitioner in that Full Bench case till 31.03.2020 pursuant to the order of the Supreme Court dt.29.03.2017, and held that the judgment in **Tanmoy Nath** (1 supra) was a judgment *in rem*, which operates as regards all the appointees/ teachers under the advertisement of 2009 and covers 10323 teachers of different categories i.e. undergraduate, graduate and post graduate teachers including the petitioner in Full Bench case.

It also noted that in the case of **Tanmoy Nath** (1 supra) itself, there was an order passed on 06.02.2014 through paper publication in terms of Order I Rule 8 CPC calling upon all the appointees and selectees to defend their respective appointments, and that despite the petitioner in the Full Bench having valid notice, he did not choose to intervene in the batch of Writ Petitions decided in the case of **Tanmoy Nath** (1 supra), and he had continued to enjoy the ad-hoc extensions to his service till 31.03.2020 in terms of the interim order passed by the Supreme Court.

The Full Bench also held that the case of the petitioner, which it was considering, was not one where the services had been terminated on charges of misconduct where principles enshrined under Article 311 of the Constitution of India required to be followed, but it was a case where the entire selection process was set aside on the ground that the revised

Employment Policy of 2003 suffered from various illegalities, lack of guidelines, arbitrariness, favoritism and nepotism in the process of recruitment.

It noted that the Division Bench in *Tanmoy Nath* (1 supra) had directed the State to frame a fresh Employment Policy, and conduct fresh selection process after giving age relaxation to the appointees whose services were terminated.

It therefore held that it was not open to the petitioner to contend (a) that the termination order dt.31.03.2020 suffered from the fault of violation of principles of natural justice and (b) that he was not covered by the judgment in *Tanmoy Nath* (1 supra) as affirmed by the Supreme Court in *State of Tripura* (3 supra).

The Full Bench also referred to paragraph 127 of the judgment in the decision of *Tanmoy Nath* (1 supra) and held that the said paragraph cannot be read in isolation from the preceding paragraphs starting from paragraphs 121 and 122 and the directions passed by the Court contained in paragraphs 123 to 126 of the judgment. It held that paragraph 127 of the Division Bench judgment in *Tanmoy Nath* (1 supra), did not confer any benefit or leverage to the petitioner before it to escape from the rigors of the decision rendered in the case of *Tanmoy Nath* (1 supra) as affirmed by the Supreme Court.

23) The Senior Counsel appearing for the appellants contended that the right of the appellants to continue in service is saved by paragraph 127 of the Division Bench judgment in *Tanmoy Nath* (1 supra).

24) This contention had been specifically rejected in the Full Bench judgment rendered on 26.09.2023 in the case of *Sri Pranab Deb* (4 supra). The said Full Bench judgment is binding on this Court as a precedent. The fact that the appellants were not parties before the Full bench is immaterial and the said judgment binds them.

25) Even otherwise, as pointed out previously, the Division Bench of the High Court in the judgment of *Tanmoy Nath* (1 supra), could not have rendered its judgment prospective, as only the Supreme Court can give prospective overruling to its decisions as per the judgment of the Supreme Court in *Golak Nath* (2 supra).

26) The other contention of the Senior Counsel for the appellants that their appointments are also saved on account of clause (e) of the judgment dt.29.03.2017 of the Supreme Court in *State of Tripura* (3 supra) affirming the judgment of Division Bench in *Tanmoy Nath* (1 supra), also cannot be countenanced.

27) We have already extracted the various portions of the said order earlier in this order.

28) In clause (e) of the said order dt.29.03.2017 (3 supra) , no doubt the Supreme Court said that the qualifications of teachers employed for Classes IX and above shall be strictly in compliance with the relevant provisions concerning such appointments, but that clause (e) has to be understood as applicable to the appointments which *have to be made* after framing of the new Employment Policy by the State Government as directed in the said order of the Supreme Court, and the selections *to be* made in accordance with the said new Employment Policy.

29) Had the Supreme Court intended to continue the appointments of persons like the appellants, who were appointed pursuant to the previous Employment Policy of 2003, which had been struck down in the judgment of the Division Bench in ***Tanmoy Nath*** (1 supra), it could not have directed a new Employment Policy to be framed, and fresh selections to be done pursuant to the said new Employment Policy.

30) Even otherwise, if there is a conflict between the order of the Supreme Court in ***State of Tripura*** (3 supra) and paragraph 127 of the order of the Division Bench in ***Tanmoy Nath*** (1 supra) being relied upon by the appellants, the former will prevail over the latter.

31) The plea of violation of principles of natural justice in the order dt.31.03.2020 raised by the appellants cannot also sustain, because reasons have been provided in the order dt. 02.05.2024.

32) Even otherwise, because the termination was necessitated by the judgment of the Supreme Court in ***State of Tripura*** (3 supra), no prejudice can be said to be caused to appellants on account of the order dt.31.03.2020 passed terminating their services. It would have been a *useless formality* for the said reason to issue a prior show cause notice in such a situation.

33) In ***S.L. Kapoor v. Jagmohan and Others***⁵, the Supreme Court had held as under:

“17. Linked with this question is the question whether the failure to observe natural justice does at all matter if the observance of natural justice would have made no difference, the admitted or indisputable facts speaking for themselves. Where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ

⁵ (1980) 4 SCC 379, at page 392

to compel the observance of natural justice, not because it approves the non-observance of natural justice but because courts do not issue futile writs. But it will be a pernicious principle to apply in other situations where conclusions are controversial, however, slightly, and penalties are discretionary.” (emphasis supplied)

34) This was reiterated in **Aligarh Muslim University and Others v. Mansoor Ali Khan**⁶, in the following manner:

“23. Chinnappa Reddy, J. in S.L. Kapoor case (5 supra) laid down two exceptions (at SCC p. 395) namely, if upon admitted or indisputable facts only one conclusion was possible, then in such a case, the principle that breach of natural justice was in itself prejudice, would not apply. In other words if no other conclusion was possible on admitted or indisputable facts, it is not necessary to quash the order which was passed in violation of natural justice. Of course, this being an exception, great care must be taken in applying this exception.

... ..

25. The “useless formality” theory, it must be noted, is an exception.

26. It will be sufficient, for the purpose of the case of Mr Mansoor Ali Khan to show that his case will fall within the exceptions stated by Chinnappa Reddy, J. in S.L. Kapoor v. Jagmohan (5 supra), namely, that on the admitted or indisputable facts, only one view is possible. In that event no prejudice can be said to have been caused to Mr Mansoor Ali Khan though notice has not been issued.”

35) But in the facts and circumstances of the case, it cannot be said that the Writ Petition filed by the appellants, warrants imposition of cost of Rs.50,000/- as was done by the learned Single Judge in the impugned judgment because it was possible that the appellants believed that para 127 of

⁶ (2000) 7 SCC 529 : 2000 SCC (L&S) 965, at page 539 :

the judgment in *Tanmoy Nath* (1 supra) saved their appointments. We have of course held that such a belief is incorrect and not legally valid.

36) Therefore only to the extent of imposition of costs of Rs.50,000/- on the appellants, the judgment of the learned Single Judge passed in WP(C) No.507/2024 on 25.07.2024 is set aside, but the rest of the judgment of the learned Single Judge is affirmed *in toto*. The Writ Appeal is allowed to that limited extent only.

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

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)



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