

**HIGH COURT OF TRIPURA
A G A R T A L A**

W.P.(C) No.733 of 2024

Smt. Anita Saha

wife of Sri Satya Narayan Parial, C/O- Sri
Upendra Debnath, resident of Bardowali, Near
Manasha Mistanna Bhandar, P.O. & P.S. A.D.
Nagar, District- West Tripura

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

- V e r s u s -

- 1. The State of Tripura,**
represented by the Secretary, Directorate of
Social Welfare & Social Education,
Government of Tripura, Civil Secretariat, New
Capital Complex, P.O. Kunjaban, P.S. New
Capital Complex, District- West Tripura
- 2. The Secretary,**
Directorate of Social Welfare & Social
Education, Government of Tripura, Civil
Secretariat, New Capital Complex, P.O.
Kunjaban, P.S. New Capital Complex, District-
West Tripura
- 3. The Director of Social Welfare & Social Education,**
Government of Tripura, Ujan Abhoynagar,
Agartala, District- West Tripura
- 4. The Additional Director of Social Welfare & Social Education,**
Government of Tripura, Ujan Abhoynagar,
Agartala, District- West Tripura
- 5. Sri Pradip Bhattacharjee,**
son of late Haripada Bhattacharjee, resident of
Jangalia, P.O. & P.S. Bishalgarh, District-
Sepahijala, PIN-799102
- 6. Sri Sanjoy Saha,**
Social Education Organiser, Bishalgarh ICDS
Project, P.O. Bishalgarh, Sepahijala

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

For the petitioner (s) : Mr. K. Pandey, Adv.
 For the Respondent (S) : Mr. M. Debbarma, Addl. G.A.
 Date of hearing & delivery of judgment and order : **27.03.2026**
 Whether fit for reporting :

Yes	No
✓	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER [ORAL]

Heard Mr. K. Pandey, learned counsel appearing for the petitioner and Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

[2] The petitioner was appointed as Social Worker Organizer (Female) on ad-hoc basis vide memorandum dated 30.09.1992 [Annexure-2 to the writ petition] against the sanctioned post. She is continuing her service since then without any break. On 19.07.2001, the State Government issued one memorandum [Annexure-3 to the writ petition] following the judgment of the High Court mentioning that in exceptional circumstances where in the exigency of public service, ad-hoc appointments/promotions are made, same should be limited to one year only and on expiry of one year, the ad-hoc appointment/promotion would automatically be ceased. It was also directed that the departments should regularize all ad-hoc appointments/promotions, in eligible cases, within a stipulated timeframe of 3 (three) months w.e.f. 30.09.2001 which would be the outer limit and if within the said period of 3[three] months in case, any Department was not able to regularize all ad-hoc appointments/promotions, the detailed report should be submitted to the G.A. (P&T) Department within 15th October, 2001. But the present petitioner

was neither regularized in her service at that time nor her ad-hoc appointment was cancelled.

[3] She continues to serve the department and she has also been receiving the regular pay scale against the said post. Again, on 24.12.2018 [Annexure-4 to the writ petition] another memorandum was issued by the State Government mentioning that some employees under various departments/offices were appointed on ad-hoc basis and were kept for a long period without regularisation. Subsequently, the departments approached the G.A(P&T) Department for regularisation of those ad-hoc appointments, defying the earlier instructions and therefore, it was stated that no ad-hoc appointment/promotion should be allowed and on an emergent necessity for allowing ad-hoc appointment, same might be allowed with the prior concurrence of the G.A. (P&T) Department and Finance Department.

[4] As per the service records of the petitioner, it appears that the department granted her higher pay scale on completion of 10 years of service for not providing any promotion to her. By the memorandum dated 12.04.2010 [Annexure-6 to the writ petition], she was further granted second ACP w.e.f 30.09.2009. The benefit of MACP-3 was also provided to her on completion of 25 years of service vide memorandum dated 19.09.2018 [Annexure-7 to the writ petition]. Interestingly, in the said memorandum, the followings were mentioned:

“As per the provision of the Rule 12 of the TSCS(R.P) Rules, 2017 vide Finance Department, Government of Tripura, Notification No.F.7(2)-FIN(PC)/2017 dated 11.07.2017 the proposal for granting the benefit of MACP-3 in respect of Smt. Anita Saha, Social Education Organizer (Female) under the disposal of CDPO, Mandwi ICDS Project, West Tripura. Hence, Smt. Anita Saha, S.E.O (F) is entitled to get the benefit of MACP-3 advancement with effect from 30th September, 2017 on

completion of 25 (Twenty Five) years satisfactory service from the date of regular appointment.

[Emphasis underscore]

[5] Thus, from the said memorandum, it appears that her service was not formally regularised but she was treated as a regular employee.

[6] A final seniority list was also published on 30.03.2021 [Annexure-8 to the writ petition] wherein she was placed against serial No.219, whereas her two colleagues namely, Sri Pradip Bhattacharjee and Sri Sanjoy Saha, according to the petitioner, who are juniors to her, were placed before her name.

[7] Being aggrieved thereof, the petitioner submitted one representation to the department and finally, filed W.P.(C) No.394 of 2021 in this Court. At Paragraph No.15 of the counter affidavit submitted in the said writ petition, it was mentioned by the respondents that seniority was revised giving effect to the date of regularisation in pursuance of the verdict of the High Court in W.P.(C) No.1497-1514 of 2017 and following the same procedure and process of those regularized as on 02.06.2017, the department would also regularise the present petitioner and two others.

[Emphasis underscore]

[8] Ultimately, the said writ petition bearing W.P.(C) No.394 of 2021 was disposed of by a Coordinate Bench of this Court on 13.07.2023 without expressing any opinion on the merit of the case and giving the liberty to the petitioner to make necessary communication with all relevant documents to the respondents in this regard and the respondent were also directed to consider such representation of the petitioner in accordance with law within a

period of 3[three] months. She thereafter, submitted a representation on 24.07.2023 [Annexure-13 to the writ petition] to the present respondent Nos.2 & 3 for consideration of the modification of the seniority list. Said representation was rejected by the respondent No.3 vide communication dated 20.01.2024 [Annexure-14 to the writ petition] stating that her service was not regularised till date and therefore, her claim of seniority could only be settled on regularization of her service in observance of due procedure, which was still to be finalised.

[9] Being aggrieved thereby, the present writ petition has been filed by the petitioner with the following reliefs:

[i] Issue Rule upon the respondents to show cause as to why the respondents should not transmit all the records relating to the case of the petitioner.

[ii] As to why a writ in the nature of Mandamus should not be issued directing the State Respondents to regularize the service of the petitioner to the post of Social Education Organiser under the Directorate of Social Welfare & Social Education, Government of Tripura w.e.f. the date of her initial appointment i.e. 30.09.1992 along with all service benefits including seniority and promotion.

[iii] As to why such order/orders should not be passed so as to give full relief to the petitioner, and, upon causes shown, to make the Rule absolute.

[10] Mr. K. Pandey, learned counsel appearing for the petitioner submits that only after the counter affidavit was submitted in the previous writ petition, the petitioner for the first time came to know that her service was not formally regularised, though she was being treated like other regular employees and she was given the benefit of regular pay scale with upgradation and even all 3[three] ACPs were also granted to her and her name was also entered in the seniority list. Therefore, now the respondents cannot contend that she was an ad-hoc employee. Learned counsel further

refers to paragraph No.9 of the counter affidavit submitted by the State in this writ petition wherein it is contended by the respondents that the department earlier took initiative to regularise the service of some Supervisors, Rural Functional Literacy Programme [RFLP], Social Education Organiser [SEO], Superintendent of Homes and Supervisor [ICDS] who were appointed on Ad-hoc basis and they regularized them vide memo dated 02.06.2017 and among them, names of Sri Pradip Bhattaharjee and Sri Sanjoy Saha were also included but the name of the petitioner was not included inadvertently at that time for regularisation.

[11] Mr. Pandey, learned counsel also refers to one additional affidavit submitted by the State-respondents wherein at paragraph No.4.7, it is stated that so far the matter of regularisation of ad-hoc service of the petitioner is concerned, an instruction was issued by a memo dated 19.07.2001 that all ad-hoc appointments under the State Government should be regularized within a period of 30th September, 2001 and accordingly, ad-hoc employees under the administrative department submitted prayers but on scrutiny, it is found that only one prayer was received from said Sri Pradip Bhattacharjee who hold the post of SEO during the period of 1991-92 on ad-hoc basis along with other prayers but no representation was received from the petitioner before placing the matter for approval of the Council of Ministers held in 2017 and thereby, the proposal for regularisation of the petitioner was not placed before the Council of Ministers in absence of her representation. It is also stated in paragraph No.4.8 that as per record of the memorandum of the Council of Ministers dated 11th May, 2017, total 19 persons appointed on ad-hoc basis out of which 2(two) posts for SEOs who

were also appointed in the year 1991-92 were proposed for regularisation and accordingly, approval was also accorded by the Council of Ministers.

[12] Mr. Pandey, learned counsel submits that according to the respondents by their above assertions made in the additional affidavit itself, only Pradip Bhattacharjee submitted his representation for regularisation of the service and none other else, but while regularising said Pradip Bhattacharjee, service of another person, namely Sanjoy Saha was also regularized. Therefore, according to learned counsel, if the petitioner was not provided with the benefit of regularisation for submission of representation, then on what basis, service of said Sanjay Saha was regularized, treating the petitioner with discrimination.

[13] Learned counsel also relies on a decision of the Hon'ble Supreme Court in the case of **Jaggo vs. Union of India & Ors., AIR 2025 SC 296; Vinod Kumar and others vs. Union of India and others, (2024) 9 SCC 327** and **Dharam Singh and others vs. State of U.P. and Another, 2025 SCC OnLine SC 1735.**

[14] Mr. M. Debbarma, learned Addl. G.A. appearing for the State submits that as the petitioner like her other colleagues did not submit any representation, her case for regularisation was not considered and moreover, her name was wrongly entered in the seniority list.

[15] This Court has considered the submissions of the learned counsel appearing for both sides and has gone through the documents relied on by the parties.

[16] As already discussed above, since 1992, the petitioner is still serving the department and she was appointed against regular sanctioned post. She has been provided with regular pay scale and other career progression benefits. Her name was also reflected in the seniority list in the year 2021 but the plea of wrong mention of the name of the petitioner in the seniority list was not agitated in the counter affidavit of the State-respondents in her previous writ petition bearing W.P.(C) No.394 of 2021 and therefore, such a plea regarding the wrong entry of her name in the seniority list cannot be accepted at this belated stage in the present writ petition. For her long standing service in the department and discharging her duties itself evaporates the essence of ad-hocism and it appears that her duty was perennial in nature and that is why the department allowed her to continue in the service for more than three decades and has derived the benefit of her hard labour.

[17] Hon'ble Supreme Court in the case of **Dharam Singh** (supra) observes that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. It is also observed that if "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India.

[18] In the case of **Jaggo** (supra), Hon'ble Supreme Court also observed that that the appellants of that case were engaged as part-time

worker on ad-hoc basis in Central Water Commission during the period from 1993 to 1999 as Safaiwali who were primarily responsible for cleaning and maintaining the office premises and one of the appellants was appointed as a Khallasi/Mali. They sought regularization of their services and being refused thereby ultimately they approached the Hon'ble Supreme Court. While dealing with their such claim, the Hon'ble Supreme Court found despite being labelled as "part-time workers," the appellants were performing essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Regarding the law laid down in **Secretary, State of Karnataka and Ors. vs. Umadevi (3) & Ors., (2006) 4 SCC 1**, the Apex Court at paragraph-20 of said judgment observes that the decision in **Umadevi (3)** (supra) did not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. Rather, said judgment sought to prevent backdoor entries and illegal appointments but where the appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution became paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. Finally, the Apex Court directed in that case that the services of said appellants be regularized.

[19] In the case of **Vinod Kumar** (supra), the appellants were initially appointed to ex-cadre posts of Accounts Clerks after a selection process involving written tests and viva voce interviews and after the rejection of their

representation for regularization to the Divisional Railway Manager in 1999, the appellants approached the Central Administrative Tribunal but their applications were dismissed. Then, they approached the High Court and the High Court upheld the order of the Tribunal. Finally, Hon'ble Supreme Court observed that the service conditions of the appellants, as evolved over time, warrant a reclassification from temporary to regular status and the failure to recognize the substantive nature of their roles and their continuous service akin to permanent employees runs counter to the principles of equity, fairness, and the intent behind employment regulations. Accordingly, the respondents were directed to regularize the appellants in that case.

[20] In view of the above position of law, this Court is of the view that this is a fit case to order for regularization of the petitioner when her other colleagues who are similarly situated, have already been regularized long ago and even they have been put to the higher position in the seniority list than the petitioner. Like them, she is also rendered her service for similar period and the source of selection of all of them was same. Therefore, merely on the pretext that she did not file a representation for regularization, she cannot be subjected to discriminatory treatment. When the State Government issued notification on 19.07.2001 [Annexure-3 of the writ petition] as stated above, directing the departments for regularization of all ad-hoc appointment/promotions in eligible cases within the stipulated period of 3[three] months, it was the duty of the respondents to take necessary step for regularization of the petitioner, and now for inaction or default on their part in compliance with the said direction, they cannot blame the petitioner and deprive her legitimate claim of regularization.

[21] In view of above, this writ petition is allowed. The respondents are directed to regularize the service of the petitioner in the post of Social Education Organizer (Female) with effect from the date of her initial appointment like her other colleagues as mentioned in the memorandum dated 02.06.2017 [Annexure-R/4 to the additional counter affidavit filed by the respondents No.1 to 4] within 3[three] months from the date of receipt of the copy of the judgment and order. Necessary consequential benefit, if any, should be provided to her accordingly.

With this observation and direction, this writ petition is disposed of.

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

JUDGE

SUJAY GHOSH

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