

**IN THE HIGH COURT OF TRIPURA
AGARTALA**

W.P.(C) No.704 of 2024

W.P.(C) No.705 of 2024

In W.P.(C) No.704 of 2024

Sri Amaresh Debbarma,

son of late Amar Kumar Debbarma, R/O-
Saipaihowar, Amtali Bazaar, Rajmangal
Para, P.O. Champahowar, P.S. Khowai,
District- Khowai, PIN-799201

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

By Advocate:

Mr. A. Bhowmik, Adv.

- V e r s u s -

1. **The State of Tripura,**
represented by its Secretary, Rural
Development, Government of Tripura, P.O.
Secretariat, P.S. New Capital Complex,
District- West Tripura, PIN-799010
2. **The Chief Engineer,**
Rural Development Department,
Government of Tripura, P.O. Agartala, P.S.
West Agartala, District- West Tripura, PIN-
799001
3. **The District Magistrate & Collector,**
Khowai District, Government of Tripura,
P.O. & P.S. Khowai, District- Khowai, PIN-
799201
4. **The Block Development Officer,**
Tulashikhar R.D. Block, P.O.
Champahowar, P.S. Khowai, District-
Khowai, PIN-799201

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

By Advocate:

Mr. D. Sarma, Addl. GA

In W.P.(C) No.705 of 2024

Sri Prahlad Debbarma,

son of late Laha Kumar Debbarma, R/O-
Bisharad Chowdhury Para, Purba Champa

Cherra, P.O. & P.S. Champahowar,
District- Khowai, Tripura, PIN-799201

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By Advocate:

Mr. K. De, Addl. GA

Date of hearing	:	17.11.2025				
Date of delivery of Judgment & order	:	17.01.2026				
Whether fit for reporting	:	<table border="1"><thead><tr><th>YES</th><th>NO</th></tr></thead><tbody><tr><td>√</td><td></td></tr></tbody></table>	YES	NO	√	
YES	NO					
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Common issues being involved, both the writ
petitions were heard together and are being disposed of by this
common judgment.

[2] In the writ petition bearing W.P.(C) No.704 of 2024, the petitioner was engaged as Contingent Driver on 16.11.2009 by the Block Development Officer [in short, the BDO], Tulashikhar R.D. Block. Thereafter, vide letter dated 28.08.2010 [Annexure-2 to W.P.(C) No.704 of 2024], the BDO wrote to District Magistrate & Collector, West Tripura, Agartala to engage him as DRW-Driver as he was experienced in Light Motor Vehicle driving and there was no driver for the vehicle of the establishment of said BDO. Thereafter, the Deputy Secretary to the Government of Tripura, Rural Development Department vide letter dated 11.09.2012 [Annexure-3] requested the DM & Collector, West Tripura to send the requisite information about the present writ petitioner and another Sri Prahllad Debbarma, the writ petitioner of W.P.(C) No.705 of 2024 as to whether both persons were still in service. The purpose of seeking such information was for regularization of their services. The DM & Collector, Khowai, Tripura vide letter dated 12.10.2012 [Annexure-4] sent the required information about said Amaresh Debbarma and Prahllad Debbarma accordingly but nothing progressed further.

[3] On 26.06.2024, the writ petitioner sent one advocate notice to the State-respondents seeking minimum of regular pay scale meant for the post of Driver (Group-C) but according to him, no response was received by him in this regard. Therefore, the present writ petition has been filed praying for minimum of

pay scale of Driver (Group-C) from the date of his completion of 10 years of service as contingent-driver. According to him, he is discharging his 8 hours (full time) duty as Driver (Group-C).

[4] In writ petition bearing W.P.(C) No.705 of 2024, said Sri Prahllad Debbarma also similarly stated that he was engaged as DRW in the office of the BDO, Tulashikhar R.D. Block on 01.12.1994. He is also discharging 8 hours duty in a day as peon like any other Group-D employee in respect of maintaining of files and peon book etc. but he was not regularized. In this regard, a letter was forwarded by the Chairman, Block Advisory Committee, Tulashikhar R.D. Block to the Joint Secretary to the Government of Tripura vide letter dated 21.07.2012 [Annexure-3 of W.P.(C) No.705 of 2024] for providing him regular scale of pay. Thereafter, he also sent one advocate notice on 12.06.2024 [Annexure-6] seeking such minimum of the pay scale meant for Peon (Group-D) but the same has also not been responded by the state-respondents and therefore, ultimately with similar prayer, he filed the present writ petition.

[5] Mr. A. Bhowmik, learned counsel appearing for the petitioners submits that as contingent workers, both the petitioners are working for more than decades but neither they have been regularized nor they are paid minimum of the pay scale, meant for Driver (Group-C) and Peon (Group-D) respectively and State is deriving the benefit of their services to

their exploitation and therefore, necessary direction may be issued to the respondents to provide them minimum of the pay scale like regular employees. Mr. Bhowmik, learned counsel also relies on the following decisions of the Hon'ble Supreme Court and the High Court:

(i) In the case of **State of U.P. and others vs. Putti Lal, (2006) 9 SCC 337**, it was observed at paragraph no.5 that in several cases, this Court, applying the principle of equal pay for equal work has held that a daily wager, if he is discharging the similar duties as those in the regular employment of the Government, should at least be entitled to receive the minimum of the pay scale though he might not be entitled to any increment or any other allowance that is permissible to his counterpart in the Government.

(ii) In **State of Punjab and others vs. Jagjit Singh and others, (2017) 1 SCC 148**, at paragraph nos.58 & 60, the followings were observed:

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly,

the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

60. Having traversed the legal parameters with reference to the application of the principle of "equal pay for equal work", in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the employees concerned (before this Court), were rendering similar duties and responsibilities as were being discharged by regular employees holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of "equal pay for equal work" summarized by us in para 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted that during the course of their employment, the temporary employees concerned were being randomly deputed to discharge duties and responsibilities which at some point in time were assigned to regular employees. Likewise, regular employees holding substantive posts were also posted to discharge the same work which was assigned to temporary employees from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals were the same as were being discharged by regular employees. It is not the case of the appellants that the respondent employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of "equal pay for equal work" would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages, on a par with the minimum of the pay scale of regularly engaged government employees holding the same post.

(iii) In the case of **Sabha Shanker Dube vs.**

Divisional Forest Officer and others, (2019) 12 SCC 297,

the appellants were the daily-rated workers employed in Group-D posts in the Forest Department in the State of Uttar Pradesh. They filed the writ petitions before the High Court of Allahabad seeking regularization of their services, the minimum of the pay

scales available to their counterparts working on regular posts. In this case, in one appeal, the learned Single Judge of the High Court rejected the claim of minimum of the pay scales by holding that such direction cannot be issued under Article 226 of the Constitution of India. The Division Bench also dismissed the said appeal.

In another appeal decided analogously, filed by daily wagers working in Group 'C' and Group 'D' posts in the Forest Department of the State of Uttar Pradesh similarly sought for their regularization of services and 'equal pay for equal' work was also the relief that was sought by the Petitioners in those Writ Petitions. The learned Single Judge allowed the Writ Petitions directing the State Government to re-consider the Petitioners-therein for regularization of their services, ignoring their artificial breaks and by relaxing the minimum educational qualifications and the physical endurance requirements prescribed by the service rules.

In the appeal, the Division Bench of the High Court set aside the direction relating to the relaxation of minimum educational qualifications and physical endurance requirements and also the direction pertaining to the minimum of the pay scales to be paid to them.

Finally, referring to the decision of **Jagjit Singh** (supra) Hon'ble Supreme Court held that the appellants were entitled to be paid the minimum of the pay scale.

[6] In the case of **Smt. Suchitra Malakar vs. State of Tripura and others**, W.A. No.134 of 2024, decided on 05.11.2025, the claim of the petitioner for minimum of the regular pay scale to a Daily Rated Worker (for short, DRW) working in the Public Works Department (R&B), Government of Tripura was turned down by the learned Single Judge on the sole ground that she had been appointed illegally without following normal rules of public employment and holding that she cannot be equated to the employees who had been appointed in terms of Articles 14 & 16 of the Constitution of India. The Division Bench set aside the judgment of the learned Single Judge, relying on the decision of **Jagjit Singh** (supra) and held that the petitioner was entitled to the wages at the minimum of the pay scale (at the lowest grade in the regular pay scale extended to regular employees holding the Group-D post).

[7] Mr. D. Sarma, learned Addl. G.A. appearing for the state-respondent in W.P.(C) No.704 of 2024 submits that the petitioner of said writ petition was a contingent driver and was meant for doing any kind of work whenever entrusted and for getting the benefit of pay parity he should have to acquire

similar qualification like regular employees and shall have to undergo regular recruitment process and then only he can enjoy the similar benefits like a regular employee.

[8] Learned Addl. G.A. also relies on the following decisions:

(i) In the case of **Harbans Lal and others vs. State of Himachal Pradesh and others, (1989) 4 SCC 459**, the petitioners were the carpenters 1st and 2nd grade employed at the Wood Working Centre of the Himachal Pradesh State Handicraft Corporation. They were termed as daily rated employees. They sought for enforcement of their fundamental right to have "equal pay for equal work" in terms as paid to their counterparts in their regular services. They wanted the same pay of regular employees as carpenters or in the alternative, the minimum wages prescribed by the Deputy Commissioner for like categories of workmen.

The Corporation has clearly stated in their counter affidavit that there were no regular employee of the petitioners' categories in their establishment and, as such, the payment to the petitioners, of the pay admissible to regular employee was not permissible.

Hon'ble Supreme Court found that the Corporation was running in loss and even to minimize the further loss, they

reduced their staff strength in the production centers and, it was also observed by the Hon'ble Supreme Court that the petitioners were not entitled to enforce the right under "equal pay for equal work" as to apply such principle, the discrimination complained of must be within the same establishment owned by the same management. But there the petitioners were claiming wages payable to the carpenters working in government service. It was also further observed that a comparison cannot be made with counterparts in other establishments with different management, or even in establishments in different geographical locations though owned by the same master and unless it is shown that there was a discrimination amongst the same set of employees by the same master in the same establishment, the principle of "equal pay for equal work" could not be enforced.

While refusing the claim of minimum wages as prescribed by the Deputy Commissioner, it was also observed that said minimum wages were fixed by the Deputy Commissioner for the skilled and unskilled workers in Government service and the said notification was not extended to employees of the Corporation. It appears that this decision of Hon'ble Supreme Court was rendered in a complete different context.

(ii) In the case of **Ghaziabad Development Authority and others vs. Vikram Chaudhary and others, (1995) 5 SCC 210**, the appellants, Ghaziabad Development Authority in its planned development of urban areas, pursuant to U.P. Urban Planning and Development Act, 1973, engaged the respondents on daily wages in the project on hand. But the respondents filed a writ petition claiming parity in appointment and pay with the regular employees and also for regularization of their services. In that contexts, it was observed by the Hon'ble Supreme Court that the appellant needed to take the services of the persons according to the requirement in the projects on hand and if on completion of the existing projects in which the respondents were working, the appellant undertook any fresh project, in that case, instead of taking the services of fresh hands at the place of their new project, the appellant should take the services of the existing temporary daily wage workers. In the event of the appellant not having any project on hand, the obligation to pay daily wages to the daily wage workers did not arise. Therefore, it was further held that since those respondents were temporary daily wage employees, so long as there were no regular posts available for appointment, the question of making pay on a par with the regular employees did not arise. But the appellant should necessarily and by implication, pay the minimum wages prescribed under the statute, if any, or the prevailing wages as available in the

locality. The fact of the present case also similarly differs with the fact of the present writ petitions in hand.

(iii) Though learned Addl. G.A., Mr. Sarma, relies on **State of Haryana and others vs. Jasmer Singh and others, (1996) 11 SCC 77**, but said **Jagjit Singh** (supra) which was a later decision, distinguished the decision of **Jasmer Singh** (supra) and observed that the said judgment is required to be examined and explained independently. At paragraph no.46.9 of **Jagjit Singh** (supra), it was also observed that it was not necessary for the Bench to refer the matter for adjudication to a larger bench, because the judgment in **Jasmer Singh** (supra), was irreconcilable and inconsistent with a large number of judgments, some of which were of larger benches, where the benefit of the principle in question was extended to temporary employees (including daily-wagers). This being the position, the decision of **Jasmer Singh** (supra) is not further elaborated herein.

(iv) Mr. Sarma, learned Addl. G.A. also relies on a decision of the Division Bench of this Court in case of **Sri Sukradhan Chakma and others vs. the State of Tripura and others**, W.A. No.10 of 2023, decided on 05.03.2024 where the petitioners sought for regularization and absorption in service which was rejected by the learned Single Judge as there was no policy of Government existent for absorption.

(v) In appeal before the Division Bench, the appellants contended that they became entitled for regularization as Group-D employee with effect from the date when they had completed 10 years of service as DRW and they were having requisite qualifications of a Group-D employee and they were discharging duties beyond 8 hours per day. They also claimed that they were entitled to minimum wages as per Minimum Wages Act, 1956. The Division Bench ultimately upheld the judgment of the learned Writ Court holding that the scheme as formulated by the State for regularization in terms of the direction of Hon'ble Supreme Court in the case of **Secretary, State of Karnataka and others vs. Umadevi (3), (2006) 4 SCC 1**, was already withdrawn by the State and the regularization or absorption could only be made against the sanctioned vacant post. Ultimately, their claim for regularization was not accepted by the Division Bench. In the said case, there was no claim for minimum of the pay scale of regular employee and the claim of the appellants regarding minimum wages as per Minimum Wages Act, 1956 was also not specifically discussed in the said judgment.

[9] Mr. K. De, learned Addl. G.A. appearing for the state-respondents in W.P.(C) No.705 of 2024 also made similar submissions, like Mr. Sarma, learned Addl. G.A., Mr. De, learned Addl. G.A. also relies on a decision of the Hon'ble Supreme court in the case of **S.C. Chandra and others vs. State of**

Jharkhand and others, (2007) 8 SCC 279. In the said decision, in one appeal, the writ petitioner approached before the High Court of Jharkhand for a direction to fix their pay scale on a par with the pay scale of Government Secondary School teachers or on a par with Grade I and II Clerks of the respondent-Bharat Coking Coal Limited [for short, the BCCL]. They also prayed that the facilities such as provident fund, gratuity, pension and other retiral benefits should also be made available to them and the State Government should take over the management of their school, namely Ram Kanali School under the provisions of the Bihar Non-Government Secondary Schools (Taking over of Management and Control) Act, 1981. In the said case, the Bharat Coking Coal Limited [for short, the BCCL] contended that the said Ram Kanali School was not owned by the BCCL, rather it was run by the Managing Committee and the writ petitioners were never appointed by the BCCL and therefore, they were not the employees of BCCL. According to them, they used to release non-recurring grants to the privately managed schools on the recommendation of the Welfare Committee subject to certain conditions and such release of non-recurring grant-in-aid did not make the school a part of the management of BCCL and therefore, any teacher in such privately managed school could not be said to be the employee of BCCL thereby entitling them all benefits as are available to the regular employees of BCCL.

Learned Single Judge allowed the writ petition and directed that the teachers of the said school were entitled to the pay scale given to the clerks working in the BCCL with effect from the date of the judgment with all consequential benefits but did not issue any direction for taking over of the said school by State of Jharkhand. The Division Bench in appeal came to the conclusion that the incumbents were not entitled to the pay scale of the employees of BCCL or equivalent to the Government employees and accordingly, set aside the order of the learned Single Judge.

Hon'ble Supreme Court finally endorsed the view of the Division Bench to be correct view on the ground that the school was not being managed by BCCL, rather they were extending only financial assistance to the said school and therefore, they could not be saddled with the liability to pay these teachers of the school as being paid to the clerks working with BCCL or in the Government of Jharkhand.

[10] In the supplementary note, His Lordship, Hon'ble Mr. Justice Markandey Katju concurring with the view of His Lordship Hon'ble Mr. Justice A.K. Mathur, who authored the judgment, and keeping in view of the above said facts of the case, at paragraph no.26 observed the followings:

26. Fixation of pay scale is a delicate mechanism which requires various considerations including financial capacity, responsibility, educational qualification, mode of appointment, etc. and it has a cascading effect. Hence,

in subsequent decisions of this Court the principle of equal pay for equal work has been considerably watered down, and it has hardly ever been applied by this Court in recent years.

As it appears that the said judgment was also passed completely in a different factual matrix.

[11] I have considered the submissions of both sides and have taken due consideration to the materials placed in the records and the above said decisions as relied upon by the parties.

[12] It is not disputed that the petitioner of W.P.(C) No.704 of 2024, Sri Amaresh Debbarma was engaged as contingent driver w.e.f. 16.11.2009 and the petitioner of W.P.(C) No.705 of 2024, Sri Prahllad Debbarma was engaged as Peon-cum-Night Guard w.e.f. 01.12.1994 and since then they have been working under the control of DM & Collector, Khowai till date. Though the petitioner of W.P.(C) No.704 of 2024, Sri Amaresh Debbarma has claimed for minimum of pay scale of driver (Group-C) but in the document relied upon by him under Annexure-4 i.e. the letter dated 12.10.2012 of the DM & Collector, Khowai his designation has been mentioned as Driver (Group-D) and not Driver (Group-C). It is also true that for more than a decade they are discharging their duties to the satisfaction of the authorities of similar nature like other Group-D employees which are of perennial nature and related to day to day official functions. Though from time to time their wages

were enhanced by the respondents but such enhancement will not meet up the constitutional principle of “equal pay for equal work”.

[13] It is clearly discernible that both the petitioners are performing and discharging similar duties like other counterparts in the regular services. In **Jagjit Singh** (supra) it is clearly observed by the Hon’ble Supreme Court that it would be fallacious to determine artificial parameters to deny the fruit of the labour. An employee engaged for same work cannot be paid in less amount than another who performed the same duties and responsibilities.

[14] Earlier thereto, in **Putti Lal** (supra) also, Hon’ble Supreme Court clearly observed that the principle of “equal pay for equal work” would be applicable when a daily wager is discharging the similar duties like those who are in regular employment in the Government and they should receive the minimum of the pay scale without any increment or allowances.

[15] In view of the above position of law and considering the facts of the case relating to both the writ petitions, it is held that both of them are entitled to get the minimum of the pay scale as meant for a Group-D employee without any increment or allowance.

[16] Both the petitioners have approached this Court in a very belated manner. Considering thus, the respondents are

directed to extend the benefit of minimum of the pay scale of a Group-D employee to both the petitioners from the period preceding 3[three] years from the date of filing of their respective writ petitions. Arrears should be paid within 3[three] months from the date of receipt of the copy of this judgment and order.

With such observations and directions, both these writ petitions are allowed and accordingly, disposed of.

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

JUDGE

SUJAY GHOSH Digitally signed by SUJAY GHOSH
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