

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

Review Pet.No.30 of 2025

along with

Review Pet.No.35 of 2024

Review Pet.No.30 of 2025

Sri Pinaki Samanta,
son of Sri Jogendra Chandra Samanta,
resident of Ramkrishna Ashram Road,
Town Bordawali, Agartala, Tripura

.....Petitioner(s)

Versus

1. The State of Tripura,
Represented by the Commissioner & Secretary to the
Finance Department, Government of Tripura, New Secretariat Complex,
Gurkhabasti, Agartala, P.O.-Kunjaban, P.S.-New Capital Complex,
Sub-Division-Sadar, District-West Tripura

2. The Deputy Secretary,
Finance (Establishment Branch) Department,
Government of Tripura, New Secretariat Complex,
Gurkhabasti, Agartala, P.O.-Kunjaban, P.S.-New Capital Complex,
Sub-Division-Sadar, District-West Tripura

3. Secretary to the General Administration
(Personnel & Training) Department,
Government of Tripura, New Secretariat Complex,
Gurkhabasti, Agartala, P.O.-Kunjaban, P.S.-New Capital Complex,
Sub-Division-Sadar, District-West Tripura

.....Official Respondent(s)

4. Smt. Sarmistha Laskar(Das), 34, Azad Hind Road,
Dhaleswar, Agartala, Tripura [The Next-of-kin, Legal Heir
And W/o Late Nalini Ranjan Das, Ex-Officer of Tripura Police
Service]

.....Proforma Respondent(s)

Review Pet.No.35 of 2024

Sri Pinaki Samanta,
son of Sri Jogendra Chandra Samanta,
resident of Ramkrishna Ashram Road,
Town Bordawali, Agartala, Tripura

.....Petitioner(s)

Versus

1. The State of Tripura,
Represented by the Commissioner & Secretary to the
Finance Department, Government of Tripura, New Secretariat Complex,
Gurkhabasti, Agartala, P.O.-Kunjaban, P.S.-New Capital Complex,
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2. The Deputy Secretary,
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Government of Tripura, New Secretariat Complex,
Gurkhabasti, Agartala, P.O.-Kunjaban, P.S.-New Capital Complex,
Sub-Division-Sadar, District-West Tripura

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(Personnel & Training) Department,
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And W/o Late Nalini Ranjan Das, Ex-Officer of Tripura Police
Service]

.....Proforma Respondent(s)

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate.
Mr. J. Samed, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Date of Hearing & Judgment : 27/02/2026

Whether fit for reporting : NO

JUDGMENT & ORDER (ORAL)

(M.S. RAMACHANDRA RAO, C.J.)

These two Review Petitions have been filed challenging the
common judgment of the Division Bench of this Court on 02.07.2024 in
W.A.No.30 of 2023 and W.A.No.53 of 2023.

2. The Petitioner in the Review Petition was appointed to the post of Deputy Superintendent of Police in Grade-II cadre of Tripura Police Service through proper selection process and after completion of necessary training, he joined to the post of Deputy S.P. on 31.10.1998 in the pay scale of Rs.2,100-3000-5000/-.

3. Subsequent thereto, the Tripura State Civil Services (Revised Pay) Rules, 1999 were introduced by the Government of Tripura revising the pay structures of the employees w.e.f. 01.01.1996.

4. The said Rules stated that the entry level scale of pay for the *directly recruited* TPS Grade-II Officers was revised to Rs.7,800-15,100/-, whereas the entry level scale of pay for the *promotee* TPS Grade-II Officers was revised to a higher scale of pay of Rs.10,000-15,100/-. The said Rules also stated that the pay scale of Rs.10,000-15,100/- was prescribed for Direct Recruit TPS Grade-II Officers after four years of service as a matter of scale advancement in terms of clause (d) of Rule 10 of the ROP Rules, 1999.

5. The Petitioner filed WP(C)No.426 of 2021 before this Court contending that there was a clear distinction as regards fixation of pay scale between *direct recruits* and *promotes*, that such difference in pay scales of persons in the same cadre is discriminatory, and that his pay scale should be at par with his junior (the proforma respondent) who was drawing higher pay of Rs.10,000-15,100/- w.e.f. 28.03.2000.

6. The Learned Single Judge allowed the said Writ Petition on 20-2-2023. He accepted this contention of the Review Petitioner and held that under the ROP Rules, 1999, separate pay scales were prescribed i.e. Rs.7800-15000/- for the *direct recruits* and Rs.10,000-15,000/- was for the *promotee* Officers; that there was a clear anomaly and the respondents must removed

this anomaly allowing the pay scale to the petitioner, being a direct recruit in the post of Deputy S.P., TPS Grade-II at par with the pay scale of the promotee Officer i.e. the proforma respondent of Rs.10,000-15,100/-.

He held that the pay scale of the Petitioner has to be upgraded/stepped up to Rs.10,000-15,100/- with effect from the date the proforma respondent had joined i.e. from 28.03.2000 being a promotee Officer, in the revised scale of pay of Rs.10000-15,100/-.

He relied also on Rule 9(A) of ROP Rules, 1999 and held that it would come into play for equalization of the scale of pay of the petitioner with that of the proforma respondent to bring parity in the pay scale as revised under ROP Rules, 1999 by way of removing the anomaly as regards the fixation of two distinct and separate scales of pay for *direct recruitee* Officers and *promotee* Officers holding similar and identical posts in the same cadre in the performance of similar and identical duties and responsibilities.

However, while allowing the Writ Petition, the Learned Single Judge stated that all financial benefits to which the petitioner would be entitled to under the ROP Rules, 1999 and the subsequent revision of pay Rules should be fixed notionally till the date *prior to one year* of the date of filing of the Writ Petition, i.e., that relief of payment of arrears is restricted to only one year before the date of filing the Writ Petition and such payment would not carry any interest.

7. The Respondents filed W.A.No.53 of 2023 to the extent that the Learned Single Judge held in favour of the Review Petitioner.

8. To the extent the Learned Single Judge did not grant arrears for a period of three years prior to the date of filing of the Writ Petition, the petitioner filed W.A.30 of 2023.

9. Both these appeals were heard together and disposed by a common order dt.7.8. 2023.

10. The Division Bench noted the principle that classification of employees based on the method of the recruitment had long been declared impermissible by the Supreme Court, that there cannot be differential treatment between an employee directly recruited vis-à-vis another employee promoted, and that as long as the two employees are part of the same cadre, they cannot be treated differently either for purposes of pay and allowances or other conditions of service including the age of superannuation and birthmarks i.e., how they got the post in the cadre by direct recruitment or promotion, have no relevance . The Division Bench relied on two decisions of the Supreme Court in ***Kamalakar & Ors. vs. Union of India & Ors.***,¹ and ***Union of India & Ors. vs. Atul Shukla & Ors.***,² in support of the said view.

11. Thereafter, the Division Bench in para Nos.16 & 17 quoted Rule 9(A) of the ROP Rules, 1999 which specifically permitted stepping up of pay of a junior if the revised pay of senior (without stepping up) was lower than that of a junior employee.

12. But having agreed in principle with the contention of the petitioner, in Para-18 the Division Bench held as under :

*“[18] In view of the above, we are of the view that the present writ petitioner is entitled to certain pay protection without refixing the pay of the writ petitioner by way of stepping up of his pay to which the pay of said Nalini Ranjan Das was fixed. Further keeping in view of the decision of the Hon’ble Apex Court in **Yogendra Shrivastava**”s case we are also of the view that the actual benefits of such pay protection should be limited up to 3(three) years.*

¹ (1999) 4 SCC 756

² (2014) 10 SCC 432

For the foregoing reasons, both the appeals are partly allowed and are disposed of in the following terms:

The State-respondents are directed to give similar financial benefits to the writ petitioner equal to the gross salary of said Nalini Ranjan Das with effect from the date when said Nalini Ranjan Das was promoted to the post of TPS(Grade-II) i.e. from 28.03.2000 for 03 (three) years next and the difference of the gross salary of Nalini Ranjan Das and the writ petitioner, Sri Pinaki Samanta as was during that period should be paid by way of arrear to the writ petitioner without changing or upgrading his pay scale by way of stepping up. Such arrear should be paid by the State respondents within 3(three) months from the date of receipt of the copy of the order.

The impugned judgment is accordingly interfered with and both appeals are disposed of with the above said directions.”

(emphasis supplied)

13. Seeking review of the common judgment in W.A.No.30 of 2023 and WA.No.53 of 2023, Rev.Petition No.30 of 2025 and Rev.Petition No.35 of 2024 have been filed by petitioner.

14. In the 1st portion of para-18 of the common judgment in the WAs, it was held that the Writ Petitioner *need not be refixed* by way of stepping up of his pay to which the pay of said private respondent- Nalini Ranjan Das was fixed. This is clearly contrary to Rule-9(A) quoted supra because there is no dispute in the instant case that the revised pay of the petitioner who was senior (without stepping up) was lower than that of proforma respondent who was junior to him. In such circumstances, Rule-9(A) mandated that the pay of the senior employee should be stepped up to an amount equal to the pay fixed for the junior employee in the revised scale of pay from the date, the stepping up is permitted in the existing scale with the

approval of the Finance Department or by the Department as per the existing orders of the Government.

This is the first error apparent on the face of the record pointed out by the counsel for the petitioner in the order of the Division Bench in the Review Petition filed by him.

15. The other error pointed out by the counsel for the petitioner is that in the later part of para-18, the Bench directed the State to give similar financial benefits to the petitioner equal to *gross salary* of the proforma respondent with effect from the date when that respondent was promoted to the post of TPS, Grade-II i.e. from 28.03.2000 for three years *next*. In other words from 28.03.2000 to 28.03.2003.

It is contended that what is to be done is the stepping up of pay of the petitioner to an amount equal to the pay fixed for the proforma respondent in the revised *pay scale*, from the date the stepping up was permitted in the existing scale and the direction to give financial benefit equal to the *gross salary* of the proforma respondent is clearly erroneous, more so, when the benefit is confined to three years from 28.03.2000 *instead of three years prior to the filing of the Writ Petition*.

16. Learned Addl. G.A., however, refuted the said contention and placed reliance on the schedule to the revised ROP Rules, 1999 while dealing with Tripura Police Service. Annexure-B to the said Rules states as under :

<i>II</i>	<i>2100-3000</i>	<i>7800-15100</i>	<i>II</i>	<i>7800-15100</i>	<i>Entry for direct recruits. He will move to CAS 1 after 4 years of service</i>	
	<i>(SL)3000-5000</i>	<i>10000-15100</i>	<i>CAS 1</i>	<i>10000-15100</i>	<i>CAS for direct recruits and entry for promotee</i>	<i>22(a)(i) for direct recruit and 22(C) for promotee</i>
<i>I</i>	<i>3500-5700</i>	<i>11150-18275</i>	<i>I</i>	<i>11150-18275</i>	<i>On promotion</i>	<i>22(C)</i>

He vehemently contends that the Petitioner being a *direct recruitee* can get only the revised pay scale of Rs.7,800-15,100/- and not the next pay scale of Rs.10,000-15,100/- which he would be entitled to get after completing four years of service. He also contends that Rule-9(A) cannot be applied in this situation.

17. The counsel for the Review Petitioner refuted the said contention and placed reliance on both Rule-9(A) and the judgments of the Supreme Court referred to supra by the Division Bench.

18. Firstly, we shall refer to Rule-9(A) of the ROP Rules, 1999 which states as under :

“(A) In case of pay of an employee was stepped up on or before after 01-01-1996 either with the approval of the Finance Department or by the Department as per the existing orders of the Government, validity of such stepping up of pay will depend on the actual necessity while fixing up of pay in the revised scale of both senior and junior employees in the same cadre. In such cases, if the revised pay of both senior employee (without stepping up) is same or more as that of junior employee in the revised scale, the benefit of stepping up will not be admissible. However, if he revised pay of senior (without stepping up) is lower than that of junior employee, the pay of senior employee will be stepped up to an amount equal to the pay fixed for the junior employee in revised scale of pay from the date the stepping up was permitted in the existing scale with the approval of the Finance Department or by the Department as per existing orders of the Government.”

(emphasis supplied)

19. As can be seen from the above Rule, stepping up of pay would be done only if there is actual necessity to do so while fixing up of pay in the revised scale of both senior and junior employees in the same cadre. So if the revised pay of senior employee (without stepping up) is same or more as that

of the junior employee in the revised scale, benefit of stepping up will not be admissible. But if the revised pay of the senior (without stepping up) is lower than that of junior employee, the pay of the senior employee will be stepped up to an amount equal to the pay fixed for the junior employee in the revised scale of pay from the date the stepping up was permitted in the existing scale with the approval of the Finance Department or by the Department as per the existing orders of the Government.

20. It is this later part of Rule-9(A) which is attracted in the instant case as was rightly held both by the Learned Single Judge while deciding the Writ Petition, and by the Division Bench while deciding the Writ Appeals. This is because there is no dispute that the Review Petitioner, being a direct recruit, was appointed on 31.10.1998 and was drawing the lesser scale of Rs.7,800-15,100/- (without stepping up) compared to the promote/proforma respondent who was promoted on 28.03.2000 and who was drawing pay scale of Rs.10,000-15,100/-.

21. In a situation of this nature, the respondents cannot contend that the Annexure-B to the ROP Rules, 1999 would prevail over Rule-9(A). The Annexure-B would apply wholly if Rule-9(A) is not attracted in a given situation, but will not apply if later part of Rule-9(A) is attracted.

22. The judgment of the Supreme Court in both *Kamlakar's case* and *Atul Shukla's case* referred to above have held that once all persons come into one cadre whether as direct recruits or promotees, the distinction between direct recruits and promotees disappears, and they are all entitled to equal treatment in the same cadre for payment of the given pay scale and the birthmarks in the service have no relevance.

23. The Division Bench in its judgment in the Writ Appeals had also accepted this principle in paras-16 & 17, but in para-18 erred in holding that there need not be any refixation of pay of the Petitioner by way of stepping up of his pay. This is clearly an error apparent on the face of record which warrants interference in the exercise of review jurisdiction by this Court.

24. We are also in agreement with the contention of the counsel for Petitioner that in the later part of para-18, the Division Bench erred in stating that the State-respondents should give similar financial benefits to the Petitioner equal to the *gross salary* of the proforma respondent for three years w.e.f.28.03.2000.

The proper direction which the Division Bench ought to have given is that the pay of the petitioner, which was lower to that of the proforma respondent, has to be stepped up to an amount equal to the pay fixed for the proforma respondent in the revised scale of pay, and that the financial benefit should be given for a period of *three years prior to 25.06.2021*, the date on which the Writ Petition was filed by the Review Petitioner. It erred in saying that the benefit is to be given from 28.3.2000 for 3 years.

25. In our opinion, the Division Bench judgment dt.02.07.2024 clearly suffers from above errors apparent on the face of record and therefore, the Review Applications are allowed and the order passed by the Division Bench in the Writ Appeal is modified as under :

“The State-respondents are directed to step up the pay of the Review Petitioner to an amount equal to the pay fixed for the proforma respondent notionally in the revised scale of pay, from the date the stepping up was permitted in the existing scale i.e.from 28.03.2000; and the arrears shall be paid to

the Review Petitioner from 25.06.2018 till date within three months from the date of receipt of a copy of this order.”

Both the Review Petitions are allowed as above and the orders in the Writ Appeals are modified.

(S. DATTA PURKAYASTHA, J)

(M.S. RAMACHANDRA RAO, CJ)

