

THE HIGH COURT OF TRIPURA
AGARTALA

W. P. (C) No.374 of 2011

1. Dr. Pallab Kanti Ghoshal
Son of Sunil Kanti Ghoshal
Pratap Roy Road, Krishnagar, P.O: Agartala-799001, P.S. West Agartala,
West Tripura.
2. Dr. Shankar Bhattacharjee,
Son of late Sachindra Bhattacharjee,
Resident of Arundhutinagar, Road No. 7, P.O. - Arundhutinagar -
799003, P.S. West Agartala, West Tripura.
3. Dr. Smriti Chakraborty,
Daughter of late Jnendra Ch. Chakraborty,
Resident of Badharghat, Near Ramthakur College, P.O: Siddhi Ashram,
P.S. West Agartala, West Tripura.
4. Dr. Anup Kr. Datta,
Son of late Ichamoy Datta,
Associate Professor,
B.B.M. College, College Tilla, P.O. Agartala College-799004, P.S. East
Agartala, West Tripura.

.....Petitioners

- V E R S U S -

1. The State of Tripura,
Represented by The Commissioner & Secretary to the Government of
Tripura. Education (Higher) Department, Civil Secretariat, Capital
Complex, P.O. Kunjaban-799006, P.S. East Agartala, West Tripura.
2. The Secretary,
To the Government of Tripura, Finance Department, Civil Secretariat,
Capital Complex, P.O. Kunjaban-799006, P.S. East Agartala, West
Tripura.
3. The Director of Higher Education,
Government of Tripura, Old Secretariat Complex, Agartla-799001, P.S.
West Agartala, West Tripura.

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE U. B. SAHA

For the petitioners : Ms. S. Deb Gupta, Advocate.

For the respondents : Mr. S. Chakraborty, Addl. G.A.

Date of hearing & delivery
of judgment and order : 15.10.2015

Whether fit for reporting : NO.

Judgment and Order (Oral)

The instant writ petition is filed by 4 petitioners, namely, Dr. Pallab Kanti Ghoshal, Dr. Shankar Bhattacharjee, Dr. Smriti Chakraborty and Dr. Anup Kr. Datta for a direction to the respondents and each one of them to set aside and/or quash the notification No. F.4 (11-4)-DHE/BGT/08(L-III)/568(25) dated 21.05.2011 and the subsequent memo No. F.4(11-4)-DHE/BGT/12.3475(26) dated 04.01.2013 issued by the Directorate of Higher Education, Government of Tripura and also the Clause-4(VIII) of Para-4 of the notification under No. F.(11-4)-DHE/BGT/08(L-III) dated 02.02.2010 as issued by the Education (Higher) Department, Government of Tripura and further for a direction to provide the petitioners three(3) non-compounded increments for their securing degree of Ph.D in service calculating the increments on the revised scale of pay as introduced by the UGC Pay Scale, 2006 or in accordance with the revised pay scale of teachers in the Government Degree College etc., on making adjustment of the advance increments that were given previously calculated on the basis of UGC Pay Scale, 1996 as adopted by the Government of Tripura.

[2] The case of the petitioners, in short, is that all the petitioners are Assistant Professors of various grades and they had received the degree of Ph.D between 2006- 2008 while in service. The UGC had adopted an incentive scheme for

attracting better talents in the field of the higher education w.e.f. 01.01.1996. The said benefit was also extended to the in-service teachers with slight modifications. The teachers who got Ph.D in service would get three non-compounded increments from the date of conferment of the said degree.

[3] The State of Tripura by awarding the benefit of the notification dated 26.03.1999 adopted the scheme for awarding the benefit of non-compounded increment. Later on by another notification dated 30.09.2002 partial modification was caused to the extent that award of the non-compounded increments would be effective from 01.04.2002 whether the teachers have joined the service prior to 01.01.1996 or after 01.01.1996. The petitioners were given the benefits of non-compounded increments from the day of their obtaining the Ph.D degree. All the petitioners got the benefit of non-compounded increment after the said cut-off date i.e. 01.01.2006 and as such, the petitioners are also covered by the provisions of the new scheme.

[4] It is stated by the respondents that the provision of the new scheme would not be applicable but no such embargo is put up for the teachers who obtained the Ph.D. in service. As per the scheme the State Government adopting the scheme with the central assistance will not alter that part of the scheme. Though the State Government has adopted the scheme by the notification dated 02.02.2010 but they altered

the words in the scheme un-authorizedly by inserting the words 'and the teachers who obtained the Ph.D. in service along with the entrant deviating from the original scheme to the prejudice of the petitioners and alike'.

[5] Being aggrieved by the action the State respondents, the petitioners also submitted representation but the said representation was not answered by the appropriate authority.

[6] The State respondents by way of filing counter affidavit denied the allegations of the petitioners. The petitioners by way of filing supplementary affidavit clearly stated that the petitioner No. 3, namely, Dr. Smriti Chakraborty retired from service on 30.04.2013 and she got her retrial benefit after considering the non-compounded increments for her securing degree of Ph.D. in service calculating the increments on the revised scale of pay as introduced by the UGC pay scale, 2006.

[7] It is further stated that she was already provided three (3) non-compounded increments for acquiring Ph.D. on 27.06.2008 but the other three (3) petitioners were not provided the benefit even though they were entitled.

[8] It is further contended that like the petitioner No. 3 some other persons namely, Dr. Anjali Chakraborty, Dr. Shyamal Debnath and others were provided three non-

compounded increment for acquiring Ph.D. and one Dr. Shyamal Debnath was also provided the said benefit on the basis of a communication of the Accountant General. Thus, the petitioners are also entitled the similar benefits.

[9] Ms. Deb Gupta, learned counsel appearing for the petitioners in her usual fairness submits that when the petitioner No. 3 was provided the benefit, then the respondents cannot deny the 3 non-compounded increments to the other petitioners for acquiring their Ph.D. She has also submitted that not only the petitioner No. 3 but some other persons, whose names are mentioned in the supplementary affidavit, were also allowed the benefit of three (3) non-compounded increments for acquiring their Ph.D. degree.

[10] Mr. Chakraborty, learned Addl. G.A. appearing for the State respondents submits that he has no information whether as per the scheme, the petitioners are not entitled to the benefit, as prayed for, or not. He is also not in a position to say whether Dr. Anjali Chakraborty, Dr. Shyamal Debnath and others were provided three (3) non compounded increments for acquiring Ph.D. or not, as stated by the petitioners.

[11] In view of the above and as agreed to by Ms. Deb Gupta, learned counsel for the petitioners, the petitioners are directed to submit a representation before the Directorate of Higher Education, the respondent No. 3 herein, stating all

their grievances and also showing the names of the other similar situated persons who were provided three (3) non-compounded increments for securing the degree of Ph.D., within a period of 15 days and the respondent No. 3 shall consider the same within 1 month from the date of receipt of the same and at the time of consideration if it is found that the petitioners are similarly situated like Dr. Anjali Chakraborty, Dr. Shyamal Debnath and others and also the petitioner No. 3, then the petitioners shall also be provided the same benefit.

[12] With the above direction, the instant writ petition is disposed of.

[13] Copy of this order be furnished to the learned counsel for the parties.

JUDGE

A.Ghosh