

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.373 of 2011

Shri Ranjan Bhattacharjee,
son of late Haripada Bhattacharjee,
Village & P.O. Jogendranagar, P.S.
East Agartala, District – West Tripura

..... **Petitioner**

- V e r s u s -

1. The State of Tripura,
represented by the Chief Secretary to
the Government of Tripura, Civil
Secretariat, Capital Complex, P.O.
Kunjaban, Agartala

2. The Commandant,
Home Guards Boarder Wing Battalion,
Government of Tripura, P.O. A.D.
Nagar, Agartala

3. The Director General of Police,
Government of Tripura, P.O. Agartala,
District – West Tripura

..... **Respondents**

BEFORE
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the petitioner : Mr. R.K.P. Singh, Advocate.

For the respondents : Mr. J. Majumder, Advocate.

Date of hearing and : **17.06.2015**
delivery of judgment & order

Whether it is fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

Heard Mr. R.K.P Singh, learned counsel appearing
for the petitioner as well as Mr. J Majumder, learned counsel
appearing for the respondents.

[2] Mr. J Majumder, learned counsel appearing for the respondents in terms of the order dated 11.06.2015, after obtaining necessary instruction has stated that in compliance of the judgment and order dated 02.06.2014, delivered in W.P.(C) No. 384 of 2010, the Director General of Police, Tripura has passed the order under No. 2311-17/R-82/DGP/LC/2010 dated 14.11.2014 by granting those petitioners who once served as the member of the erstwhile Tripura Home Guards Border Wing Battalion, the benefit of fixation of pay on extending the benefit of the past service from the date of their appointment as Border Wing Home Guards. For purpose of reference, the said order dated 14.11.2014 is reproduced hereunder:

// ORDER //

Subject:- Order passed by Director General of Police in connection with Writ Petition (Civil) – 384 of 2010 (Sri Hemanta Kr. Nandi & 11 Ors-Vs-The State of Tripura & Ors.)

12 persons who once served as members of erstwhile Tripura Home guards Border Wing Battalion, filed the above case before the Hon'ble High Court of Tripura, praying for providing benefits of fixation of pay and to get past service benefits from the date of their appointment in BWHG Bn. since 1977, claiming parity with other in terms of judgment dated 22.07.1988 passed in Civil Rule No. 119 of 1981 (Ratan Lal Dutta & Others) and judgment dated 12.11.2002 passed in WA No.46 of 97 (Sri Dilip Kr. Deb & others-Vrs- The State of Tripura & others). Hon'ble High Court of Tripura vide judgment and order dated 02.06.2014 in instant matter disposed of the case No.- WP(C)-384 of 2010 (Sri Hemanta Kr. Nandi & 11 Ors. -Vs-The State of Tripura & Ors.) with the following directions:

"In view of the submissions made by learned counsel of both side, the writ petition stands disposed of with the direction that the petitioners shall make representation to their authority within 30(thirty) days from today claiming the benefits sought in this writ petition and the representation shall consist of relevant documents and chest No. etc to facilitate the authorities to consider the representation and in the event such a representation is made, the respondents are directed to dispose the same within 3(three) months from the date of making the representation with a speaking order and to communicate their decision to the petitioners in writing.

3. The Hon'ble High Court's judgment and order dated 02-06-2014 passed in Case No. W.P.(C)-384 of 2010 has been examined by the Law Department wherein the Secretary,(Law)Government of Tripura passed views which are as under:

I am of the view that the order is reasonable and justified. The authority is to dispose of the matter with the speaking order at the earliest opportunity after receiving the representation from the petitioner as the matter is time bound.

4. In compliance of Hon'ble High Court of Tripura vide judgment and order dated 02.06.2014 passed in case No.-WP(C)-384 of 2010 and also in accordance with the views of the Law Department, the Home Department, Govt. of Tripura vide letter No.-F.13 (46)-PD/14 dated 20.10.2014 has conveyed the administrative approval/decision of the Government in respect of implementation of the judgment and order dated 02.06.2014 for giving notional pay fixation benefits to the 12 petitioners of instant Writ Petition as a member of erstwhile Border Wing Home Guards Battalion from the date of their enrolment in BWHG Bn. up to 02.06.2014 and cash benefit will be given from 03.06.2014 following the judgment dated 12.11.2002 passed in case No.-Writ Appeal-46 of 1997 (Shri Dilip Kr. Deb & Ors.-Vs-State of Tripura & Ors.). In this respect list of erstwhile border wing Home guards Battalion personnel who are now posted in the different Units of police Department are sent herewith to the Unit concerned respectively for doing the needful.

[Emphasis supplied]

5. It is also ordered that the notional pay fixation benefit and cash benefit of the 12 personnel of instant Writ petition as member of erstwhile BWHG Bn. Namely ;

(I) Sri Hemanta Kr. Nandi chest No.-8239 (BWHG Bn. No.774666), (Retd. from Commn Unit).

(ii) Sri Subal Chandra Bhowmik chest No.-961 (BWHG Bn. No. 804026), West District.

(iii) Sri Manik Bhowmik alias Manik Lal Bhowmik chest No.-8202 (BWHG Bn No. 774073), Commn. Unit.

(iv) Sri Naresh Debnath Chest No.-10519 (BWHG Bn No. 814007, Sepahijala District.

(v) Sri Nitai Pantati Uria Chest No.-8304 (BWHG Bn No. 804043) Commn. Unit.

(vi) H/C (AB) Sri Subal Chandra Deb (BWHG Bn No. 854108), West District.

(vii) NK Sri Tapan Biswas (BWHG Bn No. 804040, H/C Driver, Procurement Unit.

(viii) Sri Rabindra Sarkar Chest No.-8434 (BWHG Bn No. 854142), Proc. Unit.

(ix) Sri Haradhan Sutradhar Chest No.-8438 (BWHG Bn No. 434016), Proc. Unit.

(x) NK Prasanta Choudhury, (joined on 17.02.1977 in BWHG Bn), Khowai District.

(xi) Sri Gopal Shil Sharma Chest No.-8231 (BWHG Bn No. 774509), Commn Unit.

(xii) Sri Narayan Ch. Debnath Chest No.-13607 (BWHG Bn No. 774496), South District shall come into force subject to final check up by the I/C, Pay Cell, PHQ.

(K. Nagaraj)
Director General of Police.
Tripura

[3] Mr. R.K.P Singh, learned counsel appearing for the petitioner has submitted that the petitioner in this writ petition is also entitled to the similar benefits inasmuch as the petitioner is similarly circumstanced vis-a-vis the petitioners in the writ

petition being W.P.(C) No. 384 of 2010. The petitioner was serving as the member of the Tripura Border Wing Battalion since 1977 and while serving in the said Battalion, he was appointed in the Tripura Police Organization as a constable in the year 1983. By the judgment and order dated 22.07.1988 delivered by the Gauhati High Court in Civil Rule No. 119 of 1981 (Annexure-A) to the writ petition, it has been held that the petitioner and all others similarly situated persons appointed as members of the Border Wing Home Guards in the scale of pay mentioned in their appointment letters along with allowances as applicable to the members of equivalent ranks of the state police organization shall be entitled to get the said pay scale and other allowances as per appointment letters including the annual increments.

[4] Thereafter, by another judgment and order dated 12.11.2002, **(Dilip Kumar Deb Vs. State of Tripura and others)** delivered in Writ Appeal No. 46 of 1997, the writ petitioner was given the benefit of the judgment and order dated 22.07.1998 delivered in Civil rule No. 119 of 1981 in the following terms:

"Accordingly, we direct that the petitioner and the named persons shall be entitled to the similar pay scale and other allowances of similar rank of the State police Organization as mentioned in their appointment letters from the date of their appointment till they left the Tripura Border Wing Home Guards Battalion. While calculating the monetary benefits, the

amount already paid to the petitioner and the named persons shall be taken into consideration."

[5] Mr. R.K.P Singh, learned counsel for the petitioner submitted the discharge certificate and the chest No. to the appointing authority when he was appointed in the Tripura Police organization as the Constable.

[6] Mr. R.K.P Singh, learned counsel appearing for the respondents has further contended that in the rejoinder filed by the petitioner in response to the counter affidavit filed by the respondents, it has been stated as under:

"I reiterate that I am squarely covered by the decision of the Hon'ble High court, dated 22.07.1988 rendered in Civil Rule No.119 of 1981. My Chest Number as a Guardsman was 774259 in Home Guards Border Wing Battalion. This record is certainly available in the Law Wing of the Office of the Directorate General of Police, Tripura. Therefore, the contention that I am not similarly situated does not have any legs to stand upon. I reiterate that in entered into public service of Tripura in 1977 in the then Tripura Border Wing Home Guards Battalion and continued to hold the same post till my absorption in the Police Organization on 01.04.1983 A.D. Also the contention that I am not similarly situated with the persons, who were covered by the judgment and order, dated 22.07.1988 passed by this Hon'ble Court in Civil Rule No. 119 of 1981 is not the correct proposition, both by law and also by fact."

[Emphasis supplied]

[7] Mr. J. Majumder, learned counsel appearing for the respondents has submitted that in the para-6 of the counter affidavit, it has been asserted by the respondents that the petitioner has not submitted the copy of the discharge certificate

from the Border Wing Home Guards Battalion. Thus, the petitioner has to establish by reliable documentary evidence that he was the member of the erstwhile Border Wing Home Guards Battalion and he was discharged from the Border Wing Home Guards Battalion in the year 1983 on being appointed in the Tripura Police Organization.

[8] Mr. Majumder, learned counsel appearing for the respondents has further submitted that unless by documentary evidence it is established that the petitioner was a member of the Tripura Border Wing Home Guards Battalion, then the petitioner cannot be treated as the similarly circumstanced person vis-a-vis the writ petitioner of the W.P(C) No. 384 of 2010. In that event, the petitioner cannot get benefit as provided by the order dated 14.11.2014. Having situated thus, this Court is of the firm opinion that the petitioner shall furnish the copy of the discharge certificate showing that he was the member of the Tripura Border Wing Home Guards Battalion and the chest No. by filing a representation to the Director General of Police, Tripura, through the proper channel. If the petitioner is not in possession of the discharge certificate or the documents relating to the chest No. he shall be allowed to file a declaration affirmed by the affidavit to the said authority with the representation. Such representation shall be made by the petitioner within a month from today. On receipt of the said

representation, properly documented, the Director General of Police, Tripura shall grant the petitioner the similar benefits as enumerated in the order dated 14.11.2014. If the copy of the discharge certificate or the documents relating to the chest No. is not submitted and in lieu thereof, if the declaration supported by the affidavit in the manner as stated above be filed by the petitioner, the Director General of Police shall verify that statement from the records maintained by the Tripura Border Wing Home Guards Battalion. But by any rate, the action as indicated or the decision on the representation, supported by the declaration shall invariably be taken within 6(six) months from the date of filing the representation.

With this observation and direction, this writ petition stands disposed of. A copy of the order dated 14.11.2014 be kept in the records of this writ petition.

There shall be no order as to costs.

JUDGE

Dipesh/Sujay