

THE HIGH COURT OF TRIPURA
AGARTALA

W. P. (C) No.211 of 2011

Sri Shibu Charan Banik,
Son of late Netai Banik,
Resident of Chandrapur Colony, P.S. Radhakishorepur,
P.O. Chandrapur Colony (Indira Colony), Dist: South Tripura.

.....Petitioner

- V E R S U S -

1. The State of Tripura,
Represented by the Secretary to the Government of Tripura, Department
of Animal Resource Development, Civil Secretariat, Capital Complex,
Agartala, P.S. East Agartala, P.O. Kunjaban-799006, West Tripura.
2. The Secretary,
To the Government of Tripura, Finance Department, Civil Secretariat,
Capital Complex, Agartala, P.S. East Agartala, P.O. Kunjaban-799006,
West Tripura.
3. The Director of Animal Resource Development, P.N. Complex, Agartala,
P.S. West Agartala, P.O. Kunjaban-799006, West Tripura.

.....Respondents.

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

For the petitioner : Mr. D. Bhattacharji, Advocate.

For the respondents : Mr. J. Majumder, Advocate

Date of hearing & delivery : **24.09.2015**
of judgment and order

Whether fit for reporting : **NO.**

Judgment and Order (Oral)

The instant writ petition is filed by the petitioner,
namely, Sri Shibu Charan Banik for regularization of his
service w.e.f. 01.07.2008, under the Scheme vide
memorandum No. F. (2)-FIN (G)/2008 (Part), dated

01.09.2008 and also to provide other pecuniary service benefits.

[2] Heard Mr. D. Bhattacharji, learned counsel appearing for the petitioner. Also heard Mr. J. Majumder, learned counsel appearing for the State respondents.

[3] The pleaded case of the petitioner is that the petitioner was working as Part Time Worker since 05.01.1977 under the Director of Animaql Resource Development, the respondent No. 3 herein. The name of the petitioner was listed in the tentative seniority list as well as in the final seniority list of C.W/D.RW/P.T.W. Some other persons, namely, Sri Krishna Kanta Sinha, Sri Sunil Debnath, Sri Sunil Ch. Baidya, Sri Mihir Lal Acharjee, Sri Tapan Ch. Paul, Smt. Usha Dutta and Sri Bhuban Ch. Paul, who were also working as part time worker, were also enrolled in the seniority list. They got consideration of the department for regularization and ultimately their services were regularized, but the petitioner who had completed 10 years of service without any break, was released from his work on 28.02.2010 having not been regularized his service.

[4] The respondents by way of filing counter affidavit stated that the petitioner's service did not come under the purview of memorandum dated 01.09.2008 and

thus he is not entitled to the regularization of his service under the said memorandum.

[5] It is further stated that the petitioner did not come under the purview of memorandum No. F. F.10 (16)-FIN(G).83, dated 26.02.2007 (**Annexure-R-3 to the counter affidavit**) issued by the Finance Department.

[6] In para-9 of the counter it is also stated that "the petitioner did not come under the purview of regularization due to his seniority position which was not covered against the available vacancy and non availability of vacant post. The seniority position of the petitioner as on 31.12.1979 in the seniority list was at Serial No. 152. The employees namely, Sri Krishna Kanta Sinha, Sri Sunil Debnath, Sri Sunil Ch. Baidya, Sri Muhir Lal Acharjee, Sri Tapan Ch. Paul, Smt. Usha Dutta and Sri Bhuban Ch. Paul, who joined as part time worker and was regularized in pursuance of the Memorandum of the Administrative Department dated 14.11.1979 as the seniority position in the said list are at Serial No. 8,10,15,18,19,21,22 respectively. Thus, it is evident that Sri Sri Krishna Kanta Sinha, Sri Sunil Debnath, Sri Sunil Ch. Baidya, Sri Muhir Lal Acharjee, Sri Tapan Ch. Paul, Smt. Usha Dutta and Sri Bhuban Ch. Paul were having the higher seniority position

than the petitioner. Hence, the petitioner cannot claim parity with the senior workers/employees.”

[7] It is also contended that in the Memorandum dated 01.09.2008 (**Annexure-5 to the writ petition**) as referred by the petitioner, there is no provision for regularization of the Part Time Workers and admittedly the petitioner was retired from his service as part time worker on 28.02.2010 reaching the age of superannuation.

[8] Mr. Bhattacharji, learned counsel appearing for the petitioner while urging for reliefs sought for would contend that as the respondents considered the case of other Part Time Workers for regularization, they should also consider the prayer for regularization of the petitioner.

[9] On the other hand, Mr. Majumder, learned counsel appearing for the State respondents submits that the persons who were regularized, as mentioned in the petition, were senior to the petitioner and the petitioner was released as he attained the age of superannuation on 28.02.2010 and he has filed his petition for regularization of his service after the age of superannuation. Therefore, question of deprivation to the petitioner does not arise.

[10] He also submits that the petitioner prayed for his regularization under the memorandum dated

01.09.2008(Annexure-5 to the writ petition) w.e.f. 01.07.2008 but the said memorandum does not speak anything regarding regularization of the Part Time Workers. Hence, the instant writ petition is liable to be dismissed as no right has been created by the said memorandum in favour of the petitioner.

[11] This Court has gone through the memorandum dated 01.09.2008 **(Annexure-5 to the writ petition)** wherein, it is mentioned that the Government has taken a decision to regularized the services of DRW/ Casual/ Contingent workers engaged on full time basis who have completed 10 years of service as on 31.03.2008 and fulfilled the other conditions mentioned therein. But nowhere it is mentioned that part time workers who have completed 10 years of service would be regularized under the said scheme.

[12] More so, the service of none of the juniors to the petitioner was regularized under the memorandum dated 01.09.2008 **(Annexure-5 to the writ petition)** rather they were regularized in the year 1981 vide **(Annexure-R-2 to the counter affidavit)** and the petitioner at no point of time challenged their regularization and also did not file any petition before his attaining the age of superannuation. As the petitioner is not covered by the memorandum dated

01.09.2008 (**Annexure-5 to the writ petition**), he cannot claim regularization of his service on the basis of the said memorandum.

[13] In view of the above, this Court is of the considered opinion that the petitioner fails to make out any case for the reliefs as sought for.

[14] In the result, the instant writ petition is dismissed being devoid of merit.

JUDGE

A.Ghosh