

**THE HIGH COURT OF TRIPURA
AGARTALA**

REV. PET. NO.20 OF 2015

1. Dr. Surjya Kanta Paul,
S/o Lt. Birendra Ch. Paul,
Resident of Gangail Road, Agartala,
P.S. West Agartala, P.O. Agartala,
District- West Tripura,
Pin-799001.

2. Dr. Dulal Debnath,
S/o Lt. Nabadip Ch. Debnath,
Resident of Dalura, Khayerpur,
P.S. Ranirbazar,
District- West Tripura-799008.

..... *Petitioners*

- *Vs* -

1. The State of Tripura,
Represented by the Secretary/Commissioner,
Education (YAS) Department,
Government of Tripura,
Capital Complex, Agartala-799006.

2. The Director of Youth Affairs & Sports,
Govt. of Tripura,
Dasarath Deb States Sports Complex,
Badharghat, P.S. West Agartala,
Pin-799003.

3. The Principal In-Charge,
Regional College of Physical Education,
Panisagar, District-North Tripura-799260.

4. Tripura Public Service Commission,
Represented by its Secretary, Agartala,
West Tripura-799001.

..... *Respondents*

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioners : Mr. K.N. Bhattacharjee, Sr. Advocate
Ms. S. Chakraborty, Advocate

For respondent Nos.1 to 3 : Ms. A.S. Lodh, Addl. G.A.

For respondent No.4 : Mr. P. Dutta, Advocate

Date of hearing & delivery
of Judgment & order : **21.09.2015.**

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER(ORAL)

Heard learned senior counsel, Mr. K.N. Bhattacharjee, assisted by learned counsel, Ms. S. Chakraborty for the petitioners, learned Addl. G.A., Ms. A.S. Lodh for respondent Nos.1 to 3 and learned counsel, Mr. P. Dutta for respondent No.4.

2. The petitioners preferred WP(C) No.445 of 2014 before this Court seeking following relief:

"In the premises aforesaid it is prayed that your lordship may be pleased to issue rule NISI calling upon the respondents as to why a Writ of Mandamus or a Writ in the nature thereof should not be issued directing the Respondents to absorb/provide the petitioners the post of Assistant Professor in the RCPE, Panisagar, with the UGC pay scale of Assistant Professor w.e.f the date of their acquisition of Ph.D degree which the existing Asst. Professor Sri Debdulal Baidya has been enjoying and to pay them the UGC pay scale with arrears from the date of their acquisition of Ph.D degree within such time as may be deemed fit and proper by the Hon'ble Court as the petitioners are approaching their age of retirement.

AND/OR

A direction may be issued to the Tripura Public Service Commission not to make selection for two UR category post of Assistant Professor in Regional College of Physical Education, Panisagar, out of three UR posts advertised by the Tripura Public Service Commission vide Advertisement No.05/2015.

AND/OR

As to why a why a Writ of mandamus should not be issued alternatively directing the Respondents to modify the Recruitment rules suitably for filling up the post of Asst. Professor by absorption and removing the age limits for absorption in-service qualified candidate;

AND/OR

As to why any other Writ of direction should not be issued so as to grant complete and adequate relief to the petitioners and in case the respondents show cause, the parties may be heard and the rule may be made absolute."

3. The writ petition has been disposed of by this Court by judgment dated 04.07.2015 with the following observations:

"11. The petitioners approached this Court on 12.11.2014 along with a separate application for an interim direction. An interim order was passed on 30.03.2015 to keep two posts vacant if, in the meantime, selection process is taken up. Since the last date of submission of application expired on 16.03.2015 as per the advertisement, no direction can be issued now to consider any representation of the petitioners for their age relaxation. If in future any selection process is taken up and the petitioners make any application for

relaxation of their age for appearing in the selection process, the State Govt. may consider their prayer according to rules.

12. With this observation, the writ petition stands disposed of."

4. Now by filing the present review petition the petitioners prayed for the following relief:

"In the premises aforesaid it is prayed that your lordship may be pleased to admit the review petition, call for the records and after hearing the parties may be slightly modify the operative portion of the judgment and order providing for the petitioners an opportunity to make the application for selection by the TPSC after considering their prayer for relaxation of age and if it is so relaxed, they may be allowed to compete against at least two vacant post of Asst. Professor for UR category as per TPSC Advertisement No.5/2015."

5. Learned senior counsel, Mr. Bhattacharjee has submitted that the rule prescribes a provision for relaxation of any provision and so the age in respect of the petitioners for making application pursuant to advertisement may be relaxed by the State Government. He has also submitted that this Court granted future uncertain relief but for the present advertisement the petitioners will not be in a position to appear in the selection process since they are already over-aged.

It is submitted by learned senior counsel, Mr. Bhattacharjee that in the case of **Secretary, State of Karnataka & Ors. v. Uma Devi(3) & Ors.** reported in **(2006) 4 SCC 1** it is clearly stipulated that if rule permits then relaxation may be given to a particular class of employment and since this Court considered that in future the petitioners in case of any advertisement make any prayer for relaxation of their age that may be considered by the State Government and such relief may be granted to the petitioners for the advertisement which is pending.

6. Learned Addl. G.A., Mrs. Lodh has submitted that this Court has already passed the judgment and there is no error apparent on the face of the record and also there is nothing that this Court did not consider any material aspect and so there is no point at all to review the judgment.

7. Learned counsel, Mr. Dutta appearing for respondent No.4 has submitted that the prayer made in the review petition is also vague. The TPSC has no authority to relax any rule. The role of the TPSC is to conduct the selection process according to the rules made by the State Government and any power of relaxation is with the State Government. So this Court may not even direct the TPSC in case any application is made to relax the rules.

8. I have considered the submission of learned counsel of both side. The law in respect of review of a judgment is very

limited. A review may be entertained from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the review petitioners or could not be produced by the review petitioners at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, a review of the judgment may be made. This Court considering the materials placed on record has already passed the judgment and there is nothing to show that the petitioners made any application before the appropriate authority as per rule for relaxation of their age to enable them to appear in the selection process for which advertisement has already been made. Had the petitioners made any application before the appropriate authority seeking relaxation of the rule to enable them to appear in the selection process, the petitioners should have a good case to say that the aspect has not been considered by the Court. While there was no such case of the petitioners, I find no justification at all to review the judgment already passed by this Court consciously on the basis of the materials placed before this Court. I find no error apparent on the face of the record or no sufficient cause to review the judgment. If the prayer as made by the petitioners and submitted by learned senior counsel, Mr. Bhattacharjee is accepted it would be amounting to rewriting of the judgment which is not permissible by law.

9. The review petition therefore is found to be devoid of any merit and hence stands dismissed.

JUDGE