

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WP(C) No.54 of 2010

Sri Nani Gopal Debnath,
Son of Late Monomohan Debnath,
resident of East Dhwanjanagar,
P.O. Gakulpur, Udaipur,
P.S. R K Pur,
District - South Tripura.

..... *Petitioner.*

- Vs -

1. The State of Tripura,
Represented by the Secretary to the Government of Tripura,
Urban Development Department, Agartala.
2. The Secretary to the Government of Tripura,
Finance Department, Agartala.
3. Udaipur Nagar Panchayat,
Represented by the Executive Officer,
Udaipur, South Tripura.

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S C DAS

For the petitioner : Mr. D Bhattacharji, Advocate.
For the respondents : Mr. T D Majumder, Govt. Advocate,
Mr. K K Pal, Advocate.
Date of hearing & Judgment : 11.03.2015.
Whether fit for reporting : No.

JUDGMENT & ORDER (ORAL)

(Deepak Gupta. CJ)

By means of this Writ petition, the petitioner has prayed that his services be regularized in terms of the memorandum dated 7th November, 2007 issued by the Finance Department as he had completed 15 years of service as Daily Rated Worker (DRW) on or before 31st March, 2006.

2. The undisputed facts are that the petitioner joined as Group-D worker with the Udaipur Nagar Panchayat on 21st July, 1990. His status was upgraded to that of a Daily Rated Worker w.e.f 1st April, 1992. It is also not disputed that the date of birth of the petitioner is 14th April, 1947 and being a Group-D employee he should have retired from service on 30th April, 2007.

3. It, however, appears that the petitioner was not actually retired on 30th April, 2007 and continued in service even after attaining the age of superannuation and thereafter, on 13th January, 2009, the following order was passed :

***"No.F2(8)/PENSION/STAFF/UNP/UDP/2001-2002/6864-70
OFFICE OF THE UDAIPUR NAGAR PANCHAYAT
UDAIPUR : SOUTH TRIPURA***

Dated, Udaipur the 13th January, 2009.

OFFICE ORDER

***In pursuance of the letter vide No.F.1(18)-
UDD/DUD/2008/3579 dated 11.11.2008 of the Directorate of Urban
Development Department, Government of Tripura, Sri Nani Gopal
Debnath, Gardener(Fixed) of Udaipur Nagar Panchayat who has***

completed 60(sixty) years of age on 14.4.2007 being his date of birth on 14.04.1947 and whose date of retirement has already expired on 30.4.2007 is hereby informed that the date of his retirement shall now fall due on 31.01.2009(A.N). The period of service already rendered by his on and from 1.5.2007 in accordance to the provision under clause No.9 of Tripura Notified Area Authority(Appointment & Conditions of Services) Rule 1984 as circulated vide Notification bearing No.F.14(8)-LSG/83 dated 02.11.1985 beyond the actual date of superannuation and also to be rendered up to the date of retirement as stated above shall be treated as extension of service as a special case and it will not stand as a precedence in future.

Sri Debnath, Gardener(Fixed) is therefore asked to handover his complete charge if any to Sri Arjun Das, Gardener(Fixed) of Udaipur Nagar Panchayat within 7(seven) days from the date of receipt of this office order and to obtain no liability certificate from the office of the undersigned in due course.

This retirement proposal is also made as per decision of the last Nagar Panchayat meeting held on 26.12.2008 which has been circulated vide No.F.1(1)/Meeting/UNP/UDP/2008-2009/6763-785 dated 6.1.1009.

*To
Sri Nani Goapl Debanth Gardener (Fixed),
Udaipur Nagar Panchayat, Udaipur, South Tripura.*

*Executive Officer
Udaipur Nagar Panchayat
Udaipur, South Tripura.”*

Effectively what this impugned order means is that the petitioner stands retired from service w.e.f 30th April, 2007 but his service from 1st May, 2007 to 31st January, 2009 shall be treated to be extension of service as a special case.

4. The petitioner, in fact, retired and accepted this order and after retirement on 29th July, 2007 filed a petition praying that his services should be regularized in terms of the memorandum of the

finance department issued on 27th November, 2007. Relevant portion of the memorandum reads as follows :

"No.6(1)-UDD/DUD/Msc/2007/4291-4314 Dated, Agartala, The 27th Nov., 2007.

MEMORANDUM

Sub : Regularization of services of DRWs/Contingent/Casual Workers.

In pursuance to the Finance Department(G) Memorandum No.F.10(6)FIN(G)/2007 dated 07.11.2007, the undersigned is directed to convey approval of the State Govt. to regularize the service of DRWs/Contingent/Casual Workers of Agartala Municipal Council and Nagar Panchayat, Dharmanagar/kailashahar/Kumarghat/kamalpur/Khowai/Teliamura/sonamura/Udaipur/Amarpur/Sabroom & Belonia subject to the following criteria.

(i) DRWs/Contingent/Casual Workers engaged on full time basis with or without concurrence of Finance Department and have completed 15 years of service as on 31.03.2006.

(vi) Subject to fulfillment of above conditions, the eligible workers will be provided pay scale in the relevant grade for their regularization which will take effect from 1st November, 2007.

-----"

This order was issued on 27th November, 2007 and was to be given effect from 1st November, 2007. Unfortunately for the petitioner, he had attained the age of superannuation on 30th April, 2007. Therefore, he cannot derive the benefit of the memorandum.

5. It may appear to be a hard case but there is an oft repeated phrase that '*hard cases make bad law*'. We may have sympathy for the petitioner but this sympathy cannot be turned into twisting the law to give benefit to the petitioner. The petitioner retired on 30th April, 2007 i.e. much prior to the issuance of the

memorandum dated 27th November, 2007 and therefore, cannot get benefit of this memorandum.

6. Therefore, the writ petition being devoid of any merit stands dismissed.

JUDGE

CHIEF JUSTICE