

THE HIGH COURT OF TRIPURA
AGARTALA

WA No.20 of 2015

1. Sri Bidyut Kumar Roy,
Son of Late Kshitish Chandra Roy,
Resident of G.C.Apartments, Khusbagan,
P.O.Agartala, West Tripura.

2. Sri.Manik Dey,
Son of Late Arun Chandra Dey,
Resident of Dimsagar, P.O. Agartala,
West Tripura.

..... **APPELLANTS.**

- Vs -

1. The State of Tripura,
Agartala,(Represented by the Chief Secretary
to the Government of Tripura),
Secretariat,New Capital Complex,
P.O. Kunjaban,Agartala,
West Tripura.

2. The Commissioner-cum-Secretary
to the Government of Tripura,
Department of Food, Civil Supplies
& Consumer Affairs,
New Capital Complex,
P.O. Kunjaban, Agartala,
West Tripura.

3. The Secretary,
Finance Department,
Government of Tripura,
New Capital Complex,
P.O. Kunjaban, Agartala,
West Tripura.

4. The Director,
Food, Civil Supplies
& Consumer Affairs Department,
P.N. Complex, Gurkhabastee,
Agartala, West Tripura.

..... **Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR. JUSTICE U.B. SAHA**

For the petitioners : Mr. C. S. Sinha, Advocate.

For the respondents : Mr. B. C. Das, Adv. General.
Mr. S. Chakraborty, Addl. Govt. Adv.
Mr. B. Banerjee, Adv.

Date of hearing & delivery
of Judgment & Order : **13.08.2015.**

Whether fit for reporting : **No.**

JUDGMENT & ORDER (ORAL)

This writ appeal is directed against the judgment dated 10.07.2015 passed by a learned Single Judge of this Court whereby the writ petition filed by the petitioners had been dismissed.

2. The facts, briefly stated, are that the petitioners were working as Private Secretaries in the High Court of Gauhati, Agartala Bench. They were to work as Private Secretary to the Hon'ble Judges. During the period of service in the High Court they were also assigned the work of Private Secretary/Secretary to the State Consumer Commission and performed this job.

3. Their claim is that they should be paid 20% of the basic pay for doing this extra work. While demanding 20% they have relied upon the fact that in the States of Assam, Meghalaya and Mizoram, similarly situated employees are getting 20% of the basic pay to work as Private Secretary/Secretary to the Commission.

4. The petitioners had earlier filed WP(C) 52 of 2014, which was disposed of by this Court in the following terms:

“(9) This court fails to understand how this provision would be applicable to a person who is supposed to work as the Secretary to the Commission, not for additional hours in extension. Moreover, when the President had proposed the entitlement of 20% of the basic pay of the persons who had been engaged as the Secretary in addition to their substantive duties as the Private Secretary to the Hon'ble Judge of the Gauhati High Court, the Finance Department and the Director, Food, Civil Supplies & Consumer Affairs brushed aside that proposition, purportedly with the concurrence of the Finance Department. This Court is unable to accept the parallel drawn by virtue of rule 15(3) of the DFPRT, 1994 for rejecting the prayer of the petitioners for 20% of their basic pay as the remuneration. At the same time the Court is not competent to determine such issue. It appears that the impugned decision has been taken without considering the nature of duties that the petitioners had discharged. The Secretary of the Commission is required to function day to day basis, not on certain occasions. How can it be compared with the persons who are, on certain occasions in the same post, are asked to work for some additional hour? This aspect of the matter requires consideration by the competent authority. Accordingly, the Secretary, Food, Civil supplies & Consumer Affairs, Government of Tripura and the Secretary, Finance Department, Government of Tripura are directed to reconsider the entire issue and to determine the remuneration having regards to the observation made in the order and such consideration shall be completed without a period of 2(two) months from the date when the petitioners shall submit a copy of this order to the authorities named in this order.

With the direction as stated, this writ petition stands disposed of.

There shall be order as to costs.”

5. This judgment had attained finality. The prayer made by the petitioners that they should be granted the same pay as their counter parts working in the States of Assam, Meghalaya and Mizoram was not accepted even in that writ petition. However, the Secretary, Food, Civil Supplies and Consumer Affairs, Government of Tripura was directed to re-consider the entire issue and to determine remuneration having regard to the observations made in the order.

Thereafter, the State has again, in consultation with the then Chairman of the Consumer Commission, fixed an amount of Rs.1000/- per month as honorarium.

6. In the second writ petition, the claim of the petitioners had been rejected on the ground that the Court cannot fix the honorarium and it is for the State to fix the same. There can be no parity of pay with employees of other States. Parity of pay is within the state, under the same employer. The learned Single Judge rightly rejected the writ petition.

7. Therefore, we find no merit in the appeal which is accordingly dismissed.

JUDGE

CHIEF JUSTICE

Satabdi/Sima