

# THE HIGH COURT OF TRIPURA

## A G A R T A L A

### W.P(C)(PIL) No. 19 of 2015

#### **Petitioner :**

**Sri Sitansu Ranjan De,**  
S/o Lt. Manindra Chandra De,  
P.O + Vill- Pratapghar(College Circle, Near  
Subhasnagar Auto Stand, PIN-799004,  
Agartala, West Tripura.)

#### **By Advocate :**

Mr. C. S. Sinha, Adv.

#### **Respondents :**

- 1. The State of Tripura,**  
Represented by the Secretary, Animal  
Resource Development Department,  
Government of Tripura, New Secretariat  
Complex, P.O: Secretariat, PIN:799010,  
Agartala, West Tripura.
- 2. The Secretary,**  
General Administration (Personnel & Training)  
Department, Government of Tripura, New  
Secretariat Complex, P.O: Secretariat,  
PIN:799010, Agartala, West Tripura.
- 3. The Director,**  
Animal Resource Development Department,  
Government of Tripura, P.N Complex,  
Gurkhabasti, PO:Kunjaban, PIN: 799006,  
Agartala, West Tripura.
- 4. The Additional Secretary,**  
General Administration (Personnel & Training)  
Department, Government of Tripura, New  
Secretariat Complex, P.O: Secretariat,  
PIN:799010, Agartala, West Tripura.
- 5. Sri Dharmeswar Das,**  
Director, Animal Resource Development  
Department, Government of Tripura, P.N.  
Complex, Gurkhabasti, P.O: Kunjaban,  
PIN:799006, Agartala, West Tripura.

#### **By Advocates :**

Mr. B. C. Das, Adv. Gen.  
Mr. N. Majumder, Adv.  
Mr. B. Dutta, Adv.

**B E F O R E**  
**THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA**  
**THE HON'BLE MR. JUSTICE S. C. DAS**

Date of hearing &  
Judgment & Order : **17<sup>th</sup> November, 2015.**

Whether fit for reporting : 

|            |           |
|------------|-----------|
| <b>Yes</b> | <b>No</b> |
| √          |           |

**JUDGMENT & ORDER (ORAL)**

(Deepak Gupta, C.J.)

This petition has been purportedly filed in the public interest and challenge is laid to the re-appointment of respondent No.5, Sri Dharmeswar Das as Director, Animal Resource Development Department only on the ground that as per the rules no person can be appointed on extension after retirement for a period of more than one year at a time and for a maximum period of 2(two) years.

**[2]** The relevant rule relied upon by the petitioner reads as follows:

**\*\*\*\*\* (ii) Notwithstanding anything contained in this rules, where appointment to duty post is proposed to be made purely as a local arrangement for a period not exceeding one year at a time but not more than a maximum period of two years in all, such appointment maybe made by the Governor from persons who would be available locally or from any outside source:\*\*\*\*\*"**

A bare perusal of the Rule clearly shows that as per Tripura Veterinary Cadre Service Rules, 1989 (for short, the TVCS Rules) if a person has to be appointed/promoted to any post not in accordance with the schedule of the TVCS Rules then that appointment is a local arrangement and can be made only for a period of one year at a time and for a maximum period of two years.

**[3]** The undisputed facts are that respondent No.5 who had retired as Professor & Head Dean, Faculty of Vety. Sciences, Assam Agricultural University and was working as Professor, Department of Animal Genetics & Breeding College of Veterinary Sciences & A. H, R. K. Nagar West Tripura was appointed as Director, Animal Resources Development Department, Tripura on 22<sup>nd</sup> July, 2013 for a period of one year on contractual basis. Vide notification dated 23<sup>rd</sup> July, 2014 his services were extended for a period of one year i.e. up to 23.07.2015. Thereafter on 23<sup>rd</sup> July, 2015 another notification was issued whereby the services of respondent No.5 as Director, ARDD have been further extended for a period of one year from 24.07.2015 to 23.07.2016. This notification is under challenge before us.

**[4]** Mr. C. S. Sinha, learned counsel appearing for the petitioner submits that this last extension is totally violative of the TVCS Rules quoted hereinabove which clearly stipulates that such appointment can be for a period of one year at a time and for a maximum period of two years only.

**[5]** The stand of the State is that as per the TVCS Rules the post of Director, ARDD has to be filled in by promotion from Additional Director and it is also contended that even the post of Additional Director is lying vacant and, therefore, there is none eligible to be appointed as Director, ARDD. The State should have visualized the circumstance when it first appointed respondent No.5 on temporary basis in the year 2013. At that time it should have envisaged that this post can be filled up for only two years and for no longer period. It was for the State to have decided whether the Rules should be amended to allow the post of Director to be filled up either on deputation or by way of direct recruitment if the post cannot be filled in as per the TVCS

Rules. It was for the State to have visualized and taken a decision to fill up the post of Additional Director.

**[6]** Respondent No.5 is already more than 65(sixty-five) years old. Extension in service cannot be granted in such a fashion that people who have otherwise crossed the age of retirement are allowed to continue unendingly in service. In very special circumstances an extension may be allowed to a person whose services cannot be dispensed with but normally most service rules provide for a upper period of one or two years.

**[7]** There is a very salutary reason why there is a retirement age. It is an accepted fact that after a person reaches a certain age his usefulness comes down. That is why retirement ages have been introduced and this retirement age cannot be given a total go-by by making appointments in such a manner. Government Service is much-sought-after by everybody. It is a matter of status. All government employees are governed by Article 309 of the Constitution of India. These statutory rules which have been framed by the State itself have to be followed by the State. Even the State cannot violate the statutory rules framed under Article 309 of the Constitution of India. The appointment of respondent No.5 after a period of two years as Director is totally illegal and we have no hesitation in quashing the notification dated 23<sup>rd</sup> July, 2015.

**[8]** Having held so, keeping in view the fact that the State is facing some difficulty we permit respondent No.5 to continue in the post i.e. Director, ARDD till 31<sup>st</sup> January, 2016 but it is made clear that on or before the said date the State must make alternative arrangements and some other person will have to be appointed after making necessary amendment in the

TVCS Rules. We make it clear that the State should not amend the TVCS Rules to accommodate the respondent No.5 only because he has already crossed the age of superannuation.

**[9]** This system of granting extensions cannot be made the Rule. It has to be the exception because it discourages a work ethos. If people who are in service feel that they have been deprived of promotion because some people are granted extensions time and again then they will never work and this will affect the working in the department.

**[10]** Therefore, we have no hesitation in saying that extensions in service to people who have attained the age of superannuation should not be granted as a matter of course and should only be granted in those cases where there is no other alternative. In a case like the present one there can be appointment by direct recruitment, there can be recruitment by deputation and the State must follow these avenues for making promotion to the post of Director, ARDD. In case no eligible person is available in the department or in the State of Tripura, the State can open the doors for such appointments by way of direct recruitment or deputation to eligible candidates throughout the country and shall not confine its search to within the State of Tripura.

**[11]** With these observations, this petition is allowed and disposed of. No order as to costs.

**JUDGE**

**CHIEF JUSTICE**