

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.30 of 2015

- 1. Tripura Judicial Employees Association,**
being represented by its General Secretary, Sri Tarun Kumar Sinha, Agartala, Court Complex, P.S. West Agartala, P.O. Agartala, District – West Tripura
- 2. Sri Bhabatosh Bhowmik,**
son of late Jagneswar Bhowmik, Joynagar, Road No.7, P.O. Agartala, P.S. West Agartala, PIN – 799001
- 3. Sri Pratul Rn. Sarkar,**
son of Sri Swadesh Ch. Sarkar, Vill + P.O. Indranagar, P.S. New Capital Complex, Agartala, PIN -799006
- 4. Sri Prabir Chakraborty,**
son of late Jyotirmoy Chakraborty, Ramnagar Road No.4, P.O. Ramnagar, P.S. West Agartala, District – West
- 5. Sri Ratan Kanti Biswas,**
son of late Adhir Ch. Biswas, West Bhati Abhoynagar, P.O. Agartala, District – West Tripura, PIN - 799001
- 6. Sri Bishnupada Roy Barman,**
son of late Kalipada Roy Barman, Judge Quarter Complex, Type- II(3), Nazir Pukur Par, Krishnanagar, Agartala, District – West Tripura, PIN-799001
- 7. Sri Basudeb Chatterjee,**
son of late Ranjit Kr. Chatterjee, Vill + P.O. A.D. Nagar, Agartala, PIN -799003

- 8. Sri Ashim Bhattacharjee,**
son of late Anil Bhattacharjee, C/O- Sri Ratan Saha, Ramnagar Road No.2, Agartala, West Tripura, PIN-799002
- 9. Sri Bidhu Bhusan Das,**
son of Sri Manik Ch. Das, Judge Quarter Complex, Nazir Pukur Par, Krishnanagar, P.O. Agartala, Quarter No. Type-III(9), PIN-799001
- 10. Smt. Santana Banerjee (Dey),**
wife of late Pradip Kumar Dey, Milan Chakra, P.O. A.D. Nagar, P.S. West Agartala, District – West Tripura, PIN – 799003
- 11. Sri Jiban Debbarma,**
son of late Katamani Debbarma, Judge Quarter Complex, Nazir Pukur Par, Krishnanagar, P.O. Agartala, Quarter No. Type-III(4), PIN-799001
- 12. Sri Goutam Sarkar,**
son of Sri Gourchand Sarkar, Belabar School Tilla, P.O. S.D. Mission, District – West Tripura, PIN - 799003
- 13. Sri Rati Kanta Das,,**
son of Sri Ramesh Ch. Das, Judge Quarter Complex, Nazir Pukur Par, Krishnanagar, P.O. Agartala, Quarter No. Type-III(12), PIN-799001
- 14. Sri Debababrata Chakraborty,**
son of Sri Sushanta Kumar Chakraborty, Ramnagar near Sankar Chowmuhan, P.O. Ramnagar, P.S. West Agartala, District – West Tripura, PIN - 799002
- 15. Sri Dilip Kumar Laskar,**
son of late Nani Gopal Laskar, Kawaban, P.O. Durganagar, P.S. Ranir Bazar, District – West Tripura, PIN -799035

- 16. Sri Anil Acharjee,**
son of late Manoranjan Acharjee, 18 TG Road, Krishnanagar, Agartala, P.S. West Agartala, District – West Tripura, PIN - 799001
- 17. Sri Samir Dasgupta,**
son of late Satya Ranjan Das Gupta, Math Chowmuhani, P.O. Dhaleswar, P.S. East Agartala, District – West Tripura, PIN – 799004
- 18. Sri Tarun Kumar Sinha,**
son of late Madhulal Sinha, Dhaleswar, A.A. Road, P.O. Dhaleswar, P.S. East Agartala, PIN – 799004
- 19. Sri Pranab Bhattacharji,**
son of Sri Sadhan Bhattacharjee, Jogendranagar, P.O. Jogendranagar, P.S. East Agartala, District – West Tripura, PIN - 799012
- 20. Smt. Malina Deb,**
Wife of Sri Ashim Kumar Deb, Ramnagar Road No.2, P.O. Agartala, P.S. West Agartala, PIN – 799002
- 21. Sri Krishnadas Chakraborty,**
son of late Anath Bandhu Chakraborty, Jogendranagar, P.O. Jogendranagar, P.S. East Agartala, District – West Tripura, PIN - 799010
- 22. Smt. Sikta Roy,**
daughter of late Prafulla Kr. Roy, East Bank of Jagannath Dighi, P.O. + P.S. R.K. Pur, District – Gomati, Udaipur, PIN -799120
- 23. Sri Amit Debbarma,**
son of Sri Amulya Debbarma, District Judge's Staff Quarter Complex, P.O. + P.S. R.K. Pur, District – Gomati, Udaipur, PIN - 799120

- 24. Sri Arjun Chandra Shil,**
son of Sri Chinta Haran Shil, Vill + P.P.
Matabari, P.S. R.K. Pur, District – Gomati,
Udaipur, PIN -799120
- 25. Sri Subhasish Das,**
son of late Manoranjan Das, A.D. Nagar,
Road No.11, P.O. A.D. Nagar, P.S. West
Agartala, PIN – 799003
- 26. Sri Gour Acharjee,**
son of Sri Subodh Chandra Acharjee, Bhati
Abhoy Nagar near G.B. School, P.O.
Agartala, P.S. West Agartala, District –
West Tripura, PIN-799001
- 27. Sri Kartik Debbarma,**
son of Sri Nishi Kumar Debbarma,
Dhajanagar (Police line), R.F. Tilla, P.O.
Gokulpur, P.S. R.K. Pur, District – Gomati,
Udaipur, PIN-799120
- 28. Sri Mihir Ranjan Roy,**
son of Sri Prafulla Ch. Roy, Kalipur, Paitur
Bazar, Kailashahar, District – Unakoti,
Tripura, PIN-799277
- 29. Sri Sudhangshu Rn. Malakar,**
son of Sri Satish Ch. Malakar, Sonaimuri,
Kumarghat, District – North Tripura, PIN-
799264
- 30. Sri Sankar Das,**
son of late Basanta Das, Reshambagan,
P.O. Reshambagan, Agartala, P.S. East
Agartala, District – West Tripura, PIN –
799001
- 31. Sri Harekrshina Roy,**
son of Sri Dharendra Ch. Roy, Kacharghat,
District – Unakoti, Kailashahar, PIN-799277
- 32. Sri Bhaskar Kumar Paul,**
son of late Chirantan Kumar Paul, College
Tilla, Agartala, P.O. College Tilla, P.S. East
Agartala, District – West Tripura, PIN-
799004

33. Sri Kamrul Hasan Choudhury,
son of late Jaban Uddin Choudhury,
Laxmipur, District – Unakoti, Kailashahar,
PIN-799277

34. Sri Haran Ch. Santal,
son of late Surai Santal, Dewanpasa,
Dharmanagar, District – North Tripura,
PIN-799250

35. Sri Rampratap Teli,
son of Sri Sew Narayan Teli, Dewanpasa,
Dharmanagar, District – North Tripura,
PIN-799250

36. Sri Mrinal Das,
son of late Dhirendra Kumar Das, Hospital
Road, Dharmanagar, District – North
Tripura, PIN-799002

37. Sri Sukdeb Datta,
son of Lt. Nalini Datta, Ramnagar, P.S.
West Agartala, District – West Tripura, PIN-
799002

..... **Petitioners**

- V e r s u s -

1. The State of Tripura,
to be represented by the Secretary,
Department of Law, Government of
Tripura, Civil Secretariat, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN – 799006

2. The District & Sessions Judge,
West Tripura District, Agartala, P.S. West
Agartala, P.O. Agartala, District – West
Tripura, PIN – 799001

3. The District & Sessions Judge,
Gomati District, Udaipur, P.S. R.K. Pur,
Gomati District, Udaipur, PIN – 799120

4. **The District & Sessions Judge,**
South Tripura District, Belonia, South Tripura
5. **The District & Sessions Judge,**
Unakoti District, Kailashahar,
P.S. Kailashahar, Unakoti
6. **The District & Sessions Judge,**
North Tripura District, Dharmanagar,
P.S. Dharmanagar, P.O. Dharmanagar
7. **The Secretary to the Govt. of Tripura,**
Finance Department, Tripura, Agartala,
Civil Secretariat, New Capital Complex,
Kunjaban, Agartala, West Tripura, PIN –
799006
8. **The Secretary to the Govt. of Tripura,**
Law Department, Tripura, Agartala, Civil
Secretariat, New Capital Complex,
Kunjaban, Agartala, West Tripura, PIN –
799006
9. **The Registrar General,**
Hon'ble High Court of Tripura, Agartala,
P.O. Kunjaban, West Tripura, PIN-799006

..... Respondents

**B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the petitioners : Ms. S. Deb Gupta, Advocate.

For the respondents No.1,7 & 8 : Mr. J. Majumder, Advocate

For the respondents No.2 to 6 : Mr. S.M. Chakraborty, Sr. Advocate,
Mr. Suman Bhattacharji, Advocate

For the respondents No.9 : Ms. P. Dhar, Advocate

Date of hearing : **26.03.2015**
& delivery of Judgment & order

Whether fit for reporting :

YES	NO
	√

JUDGMENT & ORDER (ORAL)

Heard Ms. S. Deb Gupta, learned counsel appearing for the petitioners as well as Mr. S.M. Chakraborty, learned senior counsel assisted by Mr. Suman Bhattacharji, learned counsel for the respondents No.2 to 6, Mr. J. Majumder, learned counsel for the respondents No.1, 7 & 8 and Ms. P. Dhar, learned counsel appearing for the respondent No.9.

[2] As agreed by the learned counsel for the parties in view of the order dated 16.03.2015 delivered by the Supreme Court of India in **All India Judges Association and others vs. Union of India and others** in I.A. No.297 in IA No.71A in Writ Petition (Civil) No.1022 of 1989, this writ petition has been taken up for final disposal. It appears from the order dated 16.03.2015 delivered in I.A. No.297 in IA No.71A in Writ Petition (Civil) No.1022 of 1989, the Supreme Court has been urged to consider various grievances as regards the implementation of the Shetty Commission's Report which was submitted in the month of March, 2003 and the Supreme Court passed the orders on 17.12.1997 and 07.01.1998 having regards to improvement in the service conditions of the judicial staffs. Finally, on 15.07.2008 the Supreme Court has passed the following directions:

"i) the recommendations are reasonable and do not involve any financial burden.

ii) the decision to implement the recommendations by all States should be taken within a period of three months.

iii) the recommendations will be implemented w.e.f. 1.4.2003.

Subsequently, the Shetty Commission recommendations came to be approved by the Supreme Court by their order dated 07.10.2009.

But implementation of the direction of the Supreme Court, by the State Governments has given rise to various grievances of the judicial staffs. When the Supreme Court was urged for effective intervention, by the said order dated 16.03.2015, it has clarified, *inter alia*, that:

16. It has, therefore, become necessary for us to make it clear that wherever in the Shetty Commission recommendation, depending upon the nature of job performed by different categories of employees, a higher scale of pay came to be recommended in the pre-existing scale that existed prior to 6th Pay Commission recommendation and on such higher pay scale the corresponding revised scale of pay in the 6th Pay Commission recommendation as applicable from 01.01.2006, should have been continued and it was not permissible for the States to revert back to the earlier scale of pay that existed under the 5th Pay Commission which was directed to be improved in the Shetty Commission recommendation for the purpose of applying the corresponding revised pay scale under the 6th Pay Commission recommendation.

17. We, therefore, direct that wherever under the Shetty Commission recommendation which came to be approved by the order of this Court dated 07.10.2009, a higher scale of pay was recommended for different categories, which we have highlighted in the tabulated form in paragraph 9, after the introduction of 6th Pay Commission recommendations, the revised pay

should only correspond to such higher scale of pay recommended by the Shetty Commission which alone is the proper way of implementing the recommendation of the Shetty Commission as approved by this Court.

18. As far as special benefits such as medical allowance, special allowance, or TA/special pay are concerned such benefits should be continued to be maintained from 01.04.2003 up to 31.12.2005 and after 01.01.2006 also. As far as grant of one increment at the initial rate in the pay-scale for all common category posts as recommended by the Shetty Commission is concerned, since this Court in the order dated 07.10.2009 directed that such benefit should be granted on the existing pay-scale and if such benefit had been granted in the said manner, there would be no need for any further payment by way of such advance increments to be paid. However, if such one advance increment in the existing scale had not been granted, that should also be paid as a one time payment along with the pay and it is needless to state that fitment in the respective scale should be after the benefit of the said advance increment.

19. Insofar as the other prayer of the applicants/appellants for appointment of new Commission is concerned, in the light of our above conclusion, we do not find any need for making any such appointment inasmuch as all the grievances of the members of the applicants/appellants were duly considered by the Shetty Commission when it submitted its report in March, 2003.

20. In the light of our above conclusion, we direct as under:

- i. Such of those States other than the States of Andhra Pradesh, Karnataka, Assam, Punjab and Haryana and West Bengal, wherever the Shetty Commission has tabulated the financial estimate on the recommendations in the report as has been noted and extracted with reference to NCT of Delhi wherein any special allowance, medical allowance TA/special pay were directed to be given on monthly basis, such payment should be continued to be made w.e.f. 01.04.2003 and even after the coming into effect of the 6th Pay Commission recommendation from 01.01.2006 till any modification or revision is made with reference to such allowances/ TA/special pay in any future Pay Commission recommendation of the State or Centre.

ii. Wherever under the Shetty Commission recommendation, a higher scale of pay is recommended in the said tabular format for any category of employees apart from applying such higher scale of pay for the period 01.04.2003 up to 31.12.2005 as from 01.01.2006, the corresponding revision should be only with reference to such higher pay scale recommended and made applicable to those categories of employees as revised under the 6th Pay Commission Report and which came to be implemented from 01.01.2006. Instead of adopting the said manner of payment, if any of the States had resorted to the revised pay-scale corresponding to the scale of pay which was existing prior to the recommendation of the Shetty Commission Report, the States are hereby directed to rectify such defect and calculate the revised pay-scale on the above footing as directed by us, work out the difference payable to those categories of employees payable from 01.01.2006 and effect such a payment with effect from the month of April, 2015 payable in May, 2015. The arrears of the difference payable for the past period ending with March, 2015 should be paid in one lump sum or in installments, in any case within nine months from the date of this judgment i.e. on or before 31.12.2015.

iii. Insofar as one advance increment which was recommended by the Shetty Commission for all the common category posts for whom no other scale of pay other than what was existing, is concerned, as directed by this Court in the order dated 07.10.2009, if such advance increment had been paid based on the existing pay-scale, there is no need for making any further payment on that account. It is needless to state that if for any reason, such advance increment on the existing pay-scale has been omitted to be paid in those cases the concerned State Government should effect the payment as directed in our order dated 07.10.2009.

iv. It is reiterated that the above direction in regard to the implementation of 6th Pay Commission recommendation will hold good even for implementation of any future pay Commission recommendation.

[3] The Supreme Court in that order dated 16.03.2015 has requested the High Courts that either in the judicial side or on the administrative side to dispose of any application pending before it.

[4] Ms. S. Deb Gupta, learned counsel appearing for the petitioners has submitted that if this order is implemented, the petitioners' grievance will be adequately addressed. Mr. J. Majumder, learned counsel appearing for the respondents No.1, 7 & 8 and Mr. S.M. Chakraborty, learned senior counsel appearing for the respondents No.2 to 6 have also expressed the view that if the direction to implement the order dated 16.03.2015 in its letter and spirit be passed, they have no reservation. Similar view has also been expressed by Ms. P. Dhar, learned counsel appearing for the respondent No.9.

[5] Having regard to the consensus, apparent on the face of submission made by the learned counsel for the parties, this Court is of the view that this writ petition may be disposed of, with the following directions:

The respondent No.1 in the Finance Department shall examine the various aspects of the implementation of the Shetty Commission's Report and the clarifications provided by the Supreme Court having due regard to the order dated 16.03.2015 delivered in I.A. No.297 in I.A No.71A in Writ Petition (Civil) No.1022 of 1989 and thereafter, issue necessary notification for all concerned. Till

then no recovery from any judicial staff shall be made. If the judicial staffs are entitled to get any arrears of pay that shall be paid to the concerned judicial staff as per the direction of the Supreme Court.

[6] As corollary thereto and in view of the above directions, the impugned order under No.F.6(44)-DJ/G/Acct./UDP/2007-14/2396-98 dated 18.11.2014, Annexure-P/18 to the writ petition, and the impugned order under No.F.10(152)(B)-DJ/W/2007-14/10795-810 dated 01.12.2014, Annexure-P/19 to the writ petition shall remain suspended subject to the outcome of the exercise as directed and to be carried by the Finance Department, Government of Tripura.

Accordingly, this writ petition is disposed of. No order as to costs.

A copy of this order be supplied to the learned counsel for the parties for doing their needful.

JUDGE

Sujay