

THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) NO. 307 of 2013

1. Smti.Tulsi Rakshit,
D/O. Late Lalit Rakshit,
Posted at Police Lines,
Dhwajanagar, P.O. Gakulpur,
P.S. R.K.Pur, District-Gumoti-
Tripura, Pin-799114.
2. Smt. Jyotsna Malakar,
D/O . Late Kailash Malakar,
Posted at Police Lines, Dhajanagar,
P.O. Gakulpur, P.S. R.K.Pur,
District –Gumoti Tripura
Pin No. 799114.
3. Shri Kshetra Mohan Choudhury
S/O. Nishikanta Choudhury,
Posted at Santirbazar,
P.S & P.O. Santir Bazaar,
District – South Tripura.
Pin No. 799114.
4. Shri Ranjit Shil,
S/O. Late Mukunda Shil,
Posted at Dhwananagar Police Lines,
P.O. Salgara, P.S. R.K. Pur,
District – South Gumoti Tripura
Pin No. 799114.
5. Smt. Prativa Rani Bhattacharjee,
W/O. Late Kalipada Bhattacharjee,
Posted at Dhwananagar, M.T. Poll,
P.O. Gakulpur, P.S. R.K. PUR,
District-Gumoti Tripura
Pin No. 799114.
6. Shri Manisadhan Jamatia,
S/O. Late Harimohan Jamatia
Posted at Killa, P.O. Gakulpur,
P.S. R.K. Pur , District-Gumoti Tripura
Pin No. 799114.
7. Shri Dipak Shil,
S/O. Rakhal Shil,
Posted at Dhwananagar Police Lines,
P.O. Gokulpur, P.S. R.K. Pur,
District – Gumoti Tripura,
Pin No. 799114.

8. Shri Nandalal Debbarma
S/O. Chintaharan Debbarma,
Posted at Dhwanjanagar Police Lines,
P.O. Gakulpur , P.S. R.K Pur,
District – Gumoti Tripura
Pin No. 799114.

9. Shri Ram Kumar Debbarma,
S/O. Late Bhaktaram Debbarma,
Posted at Dhwanjanagar Police Lines,
P.O. Gakulpur, P.S. R.K. Pur,
District – Gumoti Tripura,
Pin No. 799114.

10. Smt. Kanan Bala Shil,
W/O. Late Gopal Shil,
Posted in the office of the S.P,
Udaipur, P.O. Udaipur,
District – Gumoti Tripura,
Pin No. 799120.

11. Shri Sunil Chandra Kar,
S/O. Late Utpal Behari Kar,
Posted at Baikhora, P.S. &
P.O. Bhaikhora, District–South Tripura,
Pin No. 799144.

12. Shri Santi Ranjan Choudhury,
S/O. Late Jogesh Ch. Choudhury,
Posted at P.O. Kanchannagar,
Santirbazaar, P.S. Santir bazaar,
District – South Tripura,
Pin No. 799144.

13. Smt. Shefali Shil,
W/O. Niranjana Shil,
Posted at S.P's Office
P.O. Udaipur, District-Gumoti-Tripura,
Pin No. 799120.

14. Smt. Putul Rani Saha,
W/O. Kanu Saha,
Posted at S.P's Office,
P.O. Udaipur , District-Gumoti-Tripura,
Pin No. 799120.

15. Shri Haradhan Shil,
S/O. Late Kshetra Mohan Shil,
P.O.- Srirampur, P.S. P.R.Bari,
P.O. Bhabanipur,
District-South Tripura,
Pin No. 799157.

16. Shri Phani Bhusan Debnath,
S/O. Late Chandra Kumar Debnath,
P.O. Rajnagar, P.S. P.R. Bari,
District-South Tripura,
Pin No.799150.

..... Petitioners.

- Versus -

1. The State of Tripura,
Represented by the Secretary,
Department of Home,
Capital Complex, Agartala,
P.O. Kunjaban, P.S. West Agartala,
District – West Tripura
Pin No. 799006.

2. The Commissioner-cum-Secretary,
Department of Finance,
Government of Tripura,
Capital Complex, Agartala,
P.O. Kunjaban, P.S. West Agartala,
District – West Tripura
Pin No. 799006.

3. The Director General of Police,
Government of Tripura, Agartala,
P.O. Agartala, District-West Tripura,
Pin No. 799001.

4. The Superintendent of Police,
Gumoti Tripura, P.O. Udaipur,
Pin No. 799120.

5. The Superintendent of Police,
South Tripura, Belonia,
P.O. Belonia, District-South Tripura,

..... Respondents.

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

For the petitioners	: Mr.K.N.Bhattacharji, Senior Advocate, Mr.S. Acharji, Advocate,
For the respondents	: Mr. S. Chakraborty, Additional Govt. Advocate.
Date of hearing & delivery of Judgment and order	: 17.04.2015.
Whether fit for reporting	: No.

JUDGEMENT AND ORDER(ORAL)

This writ petition is taken up for final disposal at the order stage itself.

2. Heard learned senior counsel, Mr. K. N. Bhattacharji for the petitioners and learned Additional Government Advocate, Mr. S. Chakraborty for the State-respondents.

3. It is an admitted position that all the petitioners were appointed as Daily Rated Workers (for short 'DRWs') under the Police Department of the Government of Tripura on different dates during the period from 1980 to 1989 and they have been working continuously without any break from the respective date of their appointment as such DRWs.

4. The Government of Tripura in the Finance Department issued a Memorandum dated 01.09.2008(Annexure-3 to the writ petition) regarding regularization of service of DRW/Casual/Contingent Workers on completion of 10 years of their service as on 31.03.2008. The said Memorandum reads as follows :-

**No.F.10(2)-FIN(G)/2008(Part)
GOVERNMENT OF TRIPURA
DEPARTMENT OF Finance**

Dated, Agartala, the 1st September, 2008.

MEMORANDUM

Subject:- Regularization of service of DRWs/Casual/Contingent Workers on completion of 10 years of service as on 31-03-2008.

The undersigned is directed to inform that the Government has taken a policy decision to regularize services of full-time DRWs/Casual/Contingent Workers who have completed 10(ten years) of service

as on 31-03-2008 and fulfill the following criterion as per Department-wise names and particulars attached herewith:

i) DRW/Casual/Contingent workers who were engaged on a full time basis in different Departments with or without concurrence of Finance Department and have completed 10 years of service as on 31-03-2008 other than Permanent Labourers, Part-time workers, Anganwadi Workers and Helpers, Home Guards , Teachers and Workers engaged under SSA and other Schemes/Programmes, may be considered for regularization as per names attached.

ii) Requirement of age as per Recruitment Rules will be deemed to be relaxed for the purpose of this regularization.

iii) Requirement of educational qualification as per Recruitment Rules will be deemed as relaxed for regularization under Group-D only. In case of DRW/ and Contingent Workers who were appointed under Group-C category, educational qualification as required under concerned R.R. must be ensured while entertaining their cases for regularization.

iv) Except age and educational qualification mentioned in point (iii) all other criterion as per relevant Recruitment Rules including reservation roster will have to be followed strictly for the is process of regularization.

v) 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 July 2008.

2) To facilitate quick action for implementation of the above decision, appropriate authorities of the concerned Administrative Departments of the State Government are authorized to take following actions:

i) The Departments will scrutinize the records and particulars of the workers whose name and particulars are included in the annexure attached herewith to ascertain their eligibility for regularization. Only those workers out of the attached annexure who fulfills all the above criterion are to be regularized.

ii) While ascertaining eligibility, other than relaxation made in respect of educational qualification and age, other requirements like nationality, reservation quota are to be followed strictly.

iii) After ascertaining the number of eligible cases, the department will take steps for creation of required number of posts in the appropriate category including creation for post for SC and ST as per 100 point roster for accommodating them in the concerned pay scale for regularization. The computation is to be done to ensure 31% reservation for ST & 17% reservation for SC against the member of UR candidates as per list

enclosed without bringing any previous backlog. Formal appointment orders are to be issued by concerned appropriate authority accordingly. After taking this step department will send proposal to the Finance Department for ex-post-facto concurrence for creation of posts.

iv) Following regularization of the eligible cases out of list attached herewith, the Departments are required to take action to ensure recruitment of shortfall of candidates under ST & SC category to fulfill the roster. In respect of such short fall under Group D category, the Tribal Welfare Department would act as the Nodal Department for selection of required number of candidates and sponsoring them to the respective Department. The Departments are requested to send a report within one month to the Finance Department indicating action taken as per the instant Memorandum and details of posts filled up/lying vacant on completion of the process.

3) The undersigned is directed to request all concerned to ensure strict implementation of the above decisions.

**(N. Das)
Joint Secretary to the
Government of Tripura"**

5. The petitioners, being DRWs, working for more than 10 years, in the meantime, after issuance of Memo dated 01.09.2008, approached the respondents for their regularization, but since they were not regularized, they approached the Agartala Bench of the Gauhati High Court by filing W.P.(C) No. 401 of 2009 seeking direction on the respondents for regularization of their services and the learned Single Judge of this Court by order dated 10.09.2010 disposed the writ petition with the following orders:-

"However, it is not necessary for this Court to discuss about the merit of the writ petition filed by the petitioner. The instant writ petition is disposed of with a direction to the petitioners to file a representation before the respondent No.3 who is the head of the Police organization in the state of Tripura , within a period of fifteen days and the respondents No.3 shall consider the representation of the petitioner and dispose of the same by a reasoned order within a period of two months from the date of receipt of the representation taking note of Annexure-3 to the writ

petition as well as the fact that services of some of the juniors to the petitioners were regularized.

With the aforesaid order, instant writ petition is disposed of. However, if the petitioners are aggrieved by the order of the Respondent No. 3 on their representation, they are at liberty to approach the appropriate Court, if so advised."

6. Pursuant to the above order, the petitioners made representation to the respondents for regularization of their services as Group-D workers, but since their representation was not considered, they again approached the Agartala Bench of the Gauhati High Court by filing W.P.(C) No.497 of 2011 and the learned Single Judge of the High Court by order dated 01.02.2012 disposed the writ petition with a direction to the respondents to take final decision within a period of six weeks from the date of passing of the order and the relevant direction of the Court reads as follows :-

"In view of the above, the present petition is disposed of directing the respondent Nos. 1 and 2, namely the Secretary to the Govt. of Tripura, Home Department and the Commissioner-cum-Secretary, Department of Finance, Govt. of Tripura to take a final decision within a period of six weeks from today relating to the claim of the petitioners for regularization in service in terms of the office memorandum dated 1.9.2008 and communicate the said decision within the aforesaid period of time to the Director General of Police, who shall pass the consequential order within one week thereafter.

A copy of this order be furnished to Mr. Chakraborty, Learned State counsel for onward transmission to the respondent Nos. 1, 2 and 3 namely, the Secretary to the Govt. of Tripura, Home Department, the Commissioner-cum-Secretary, Department of Finance, Govt. of Tripura and the Director General of Police, Tripura for compliance.

It is needless to say that any order that may be passed shall be served on the petitioners.

The writ petition is accordingly disposed of. No cost."

7. In view of the above order, the Director General of Police (respondent No.3) issued an order dated 07.05.2012 (Annexure-10 to the writ petition) and thereby arrived at a conclusion that the services of the petitioners cannot be regularized since the Government did not accord approval. The said order dated 07.05.2012 reads as follows :-

**"Government of Tripura
Office of the Director General of Police
Tripura ::: Agartala.
(Legal Cell)**

// ORDER //

Petitioner Smti Tulshi Rakshit & 16 others filed a writ petition vide Case No. W.P.(C)-401 of 2009 before the Agartala Bench of Hon'ble Gauhati High Court seeking directions upon the Respondents to regularize their services in accordance with the Govt. of Tripura, Finance Department Memorandum No. F. 10(2)-FIN(G)-2008(Part) dated 01-09-2010, while disposing of the writ petition directed the Respondents to consider their case and pass a reasoned order within a period of 2(two) months from the date of receipt of representation from the petitioners for regularization of the service. Accordingly, the undersigned passed an order dated 20-11-2010 intimating the petitioners that the order of regularization could not be issued without the approval of the Govt. Following this, the petitioners further filed a writ petition before the Agartala Bench of Hon'ble Gauhati High Court vide No. W.P.(C)-497 of 2011 seeking directions upon the Respondents to comply with the order of the Hon'ble High Court dated 10-09-2010.

2. After hearing the case, Hon'ble High Court in its order dated 01-02-2012 disposed of the case with the following observations:-

"The present petition is disposed of directing the Respondent Nos. 1 & 2, namely the Secretary to the Govt. of Tripura, Home Department and the Commissioner-cum-Secretary, Department of Finance, Govt. of Tripura to take a final decision within a period of six weeks from today relating to the claim of the petitioners for regularization in service in terms of the office memorandum dated 01-09-2008 and communicate the said decision within the aforesaid period of time to the Director General of Police, who shall pass the consequential order within one week thereafter."

3. On receipt of the aforesaid court's order dated 01-02-2012 a proposal, along with available supporting documents for regularization of the services of the petitioners, was sent by PHQ to the Home Department vide this office letter No. 3589/F.23(3)-PHQ/2012 dated 21-01-2012.

4. Home Department, Govt. of Tripura vide letter No. F.13(44)-PD/09(L-II) dated 28-04-2012 has communicated the decision of the Finance Department to the Director General of Police, Tripura which is as under:-

"On the basis of documents furnished by you, not a single case has been found to have fulfill the conditions prescribed for regularization i.e. DRWs / Casual / Contingent Workers engaged on full time basis prior to 31-03-2003. Hence their cases could not be considered for regularization".

5. In view of the above, I being the Respondent No. 3 do hereby pass this order regretting the claim of the petitioners for regularization of services on the ground that the Govt. did not accord approval.

**(Sanjay Sinha), IPS.
Director General of Police, Tripura"**

8. This is the third time that the petitioners approached this Court for redressal of their grievance since their claim has been turned down by the respondents without assigning any reason.

9. The respondents by filing counter affidavit only contended that the Finance Department regretted the proposal sent by the Director General of Police. The stand of the respondents has been stated in para-13 of the counter affidavit, which reads as follows :-

"13. That, in reply to the averments made in Paragraph-8 of the Writ Petition, it is stated that, a proposal was initiated to the State Government based on available supporting documents for regularization of service of the petitioners. But State Government, in Finance Department has regretted its inability to consider the case(s) stating that not a single case has been found to have fulfill the conditions prescribed for regularization, i.e.

DRWs/Casual/Contingent workers engaged on full time basis prior to 31.03.2003.

In respect of DRWs/PTWs question of maintaining of Service Book does not arise."

10. The petitioners in the writ petition in para-2 stated their year of appointment and it shows that all the 16 petitioners were appointed on different dates during the year from 1980 to 1989. The respondents did not dispute it in their counter affidavit and it is stated in para-9 of the counter affidavit that the petitioners have been engaged during the period between 1985 and 1989. It is an admitted position that the petitioners have been working without any break as DRWs.

11. As per the decision of the State Government, vide Memorandum dated 01.09.2008 (Annexure-3 to the writ petition) the petitioners are entitled to be regularized in service. They had approached this Court on two occasions and this Court directed the respondents to dispose their claim and the claim of the petitioners had been disposed of with a mechanical order without assigning any reason. Annexure-10, order dated 07.05.2012, which is already reproduced hereinbefore, shows that the Finance Department has communicated the Director General of Police that the documents furnished by the Director General of Police do not fulfill the condition prescribed for regularization, but neither in that order nor in the counter affidavit, the respondents spared a single word as to what was the deficiency for which the petitioners could not be regularized.

12. The Memorandum dated 01.09.2008 shows that the requirement of age and educational qualification as required under the recruitment rules shall be deemed to be relaxed. So, the petitioners, who have been working as DRW for more than 10 years, ought to have been regularized. The petitioners contended that they have been working as a full time DRWs and there is no averment in the counter affidavit that the petitioners are not full time DRWs or that there is any other deficiency in their qualification for regularization.

13. Learned Additional Government Advocate submitted that in the order dated 01.02.2012 passed in W.P.(C) No. 497 of 2011 no liberty was given to the petitioners to approach the Court again. I think no such liberty is required to be given in the order of this Court since it is the fundamental liberty of any citizen to approach this Court when his grievance is not redressed by the authority.

14. The petitioners since working for more than 10 years, they are well covered under Memorandum dated 01.09.2008 and the respondents turned down their regularization without assigning any reason and hence, I think it is a fit case and it is appropriate to give proper direction to regularize them as a Group-D workers under the Police Department of the Government of Tripura in the vacant posts or creating supernumerary posts as the case may be.

15. The writ petition is accordingly allowed. The respondents are directed to regularize the service of the petitioners within 90(ninety) days from today.

16. There shall be no order as to costs.

JUDGE