

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) No. 239 of 2014

Sri Tapabrata Bhattacharjee,
son of Herambamuhan Bhattacharjee
of Barjala T.R.T.C., P.O. Barjala,
District- West Tripura .

..... **Petitioner**

- **Versus** -

1. Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking), represented by its
Chairman, having its office at Krishnanagar,
P.O. Agartala, P.S. West Agartala,
District-West Tripura.

2. The Managing Director,
Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
having its office at Krishnanagar,
P.O. Agartala, P.S. West Agartala,
District-West Tripura.

..... **Respondents**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Ms. R. Purakayastha, Advocate

For the respondents : Mr. P. Dutta, Advocate

Date of hearing & : **13.01.2015.**
delivery of
Judgment & order

Whether fit for
reporting

:

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ.)

The petitioner, Tapabrata Bhattacharjee was an
employee of the Tripura Road Transport Corporation(TRTC) and
retired w.e.f. 31.05.2012. Vide Memorandum dated 10.11.1999,

the certain posts which were earlier in Group-D were treated to be as Group-C posts on account of the fact that the pay scale which these employees were getting was in a band which came to the Fifth Pay Commission fell in the category of Group-C. Thereafter in 1999, the Memorandum directed the employees to submit an option as to whether they would like to be in Group-C or Group-D. The relevant portion of the Schedule-I relating to the option reads as follows:

"The employees who were already enjoying the pay scale of Rs.850-2130/-(treated as Gr.-C) but were enjoying all the facilities admissible for Group-'D' employees as per existing orders of the Govt. shall be treated as Group-'D' employees with effect from 01.01.1999.

However, they may submit a option within one month from the date of notification of these rules, whether they would like to retain the status of Group-'C' or Group-'D' employee. If they opt to retain the status of Group-'C', in that case they shall not be entitled to enjoy any facilities(such as Retirement benefit, Washing Allowance, Liveries, G.I.S. etc.) prescribed for Group-'D' employees with effect from 01.01.1999."

2. Though such Memorandum was issued, it appears that no option was actually exercised by any employee of the TRTC. The problem arose because Group-C employees were to retire on attaining the age of 58 years and Group-D employees were to retire on attaining the age of 60 years. Thereafter on 14.09.2011, another Memorandum was issued which reads as follows:

[3]

“On account of fixation of pay in the Group-“C” categories of pay scale as well as continuation of service beyond 58 years age a group of employees of above category have drawn a reasonable amount in excess.

Now, the management of the Corporation have taken a decision to consider the matter of withdrawal of excess amount by the above categories staff in a lenient view, provided that the concerned employees who have completed age of 58 years of more whatsoever the ages may be as on 1st September 2011, shall go on retirement on 30th September, 2011.”

3. The petitioner thereafter on 17.10.2011 exercised his option to be in Group-D and also agreed that the excess amount drawn by him from 01.01.1999 till date be recovered from his salary for the remaining period of service or from his gratuity.

4. In the meantime, the retirement age of Group-C employees was also changed by the Government and raised to 60 years w.e.f. 01.04.2012.

5. It would be pertinent to mention that some other employees of the Corporation who had also exercised an option that they intended to continue in service up to the age of 60 years in the corresponding pay of Group-D employees and in that case excess pay drawn by them from 01.01.1999 till date may be recovered from their salary for the remaining period of service. However, they later filed writ petitions being WP(C) No.141 of 2012 and others challenging the action of the TRTC and the learned Single Judge disposed of the same in the following terms:

[4]

"22. In the case in hand, the Corporation has found their action erroneous after the said clarification received from the Transport Department. As such, this court is inclined not to permit the respondent-Corporation to recover any excess amount from the petitioners. If the petitioners are inclined to continue with the benefits attached to the Group-D employees, they are to exercise the option in that regard and in that case the respondent-Corporation may recover the excess amount with effect from 22.03.2012. But, if the petitioners are inclined to continue as the Group-C employees in exclusion of the benefits available to the Group-D category, they would be allowed to continue in the service in the pre-revised scale of pay of Rs.3050-5910/-(corresponding revised scale of Rs.5310-24,000/-) till their age of superannuation at 60 years in terms of the new policy.

23. Accordingly, the impugned orders are set aside. However, if some or any of the petitioners intend expressly to retain the benefit of the Group-D employee, the competent authority of the Corporation may pass the order of recovery in terms of this order"

6. The result is that those employees were given another chance by the Court to exercise their option and it was ordered that if the petitioners are inclined to continue with benefits attached to Group-D employees they must exercise the option in that regard and in that case the respondent-Corporation may recover the excess amount w.e.f. 22.03.2012, but, if the petitioners are inclined to continue as Group-C employees, they would be allowed to continue in Group-C service till their age of

[5]

superannuation at 60 years in terms of the new policy. The learned Single Judge further directed that if some employees intend to retain the benefit of Group-D employees then the Corporation may pass orders of recovery in terms of the order.

7. Therefore, the employees who approached this Court were given an option once more of choosing whether they wanted to be in Group-C or Group-D because by that time the age of superannuation had already raised.

8. The petitioner is in an identical situation and we see no reason why he should not get the same benefits which were given to the persons who approached this Court.

9. We, therefore, dispose of this writ petition with a direction that the petitioner within six weeks from today is permitted to file a fresh option before the TRTC indicating whether he should be treated as a Group-C employee or a Group-D employee. The TRTC shall deal with the matter in line with the decision of this Court in WP(C) No.141 of 2012 and others dated 22.07.2013 which has been referred herein above. No costs.

JUDGE

CHIEF JUSTICE