HIGH COURT OF TRIPURA
AGARTALA

WP(C)No.503 of 2019

Tapan Kumar Das and Others

…….Petitioner(s)

Versus

State of Tripura & 2 Others

…….Respondent(s)

For Petitioner(s)	:	Mr. C.S. Sinha, Adv.
For Respondent(s)	:	Mr. D. Sharma, Addl. G.A.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

14/12/2020

Heard Mr. C.S. Sinha, learned counsel appearing for the petitioners as well as Mr. D. Sharma, learned Addl. G.A. appearing for the respondents.

2. The writ petitioners were appointed as Junior Grade Stenographers in the Tripura Government Stenographer Services in the scale of pay of Rs.1300-3,220/- by the order No.F.2(13)-GA/92 dated 20.04.1997. On the recommendation of 3rd Pay Commission as was constituted by the Government of Tripura, of the cadre services were provided the benefit of scale movement on completion of four years of service. Initially, such benefit was extended to all the cadre services, but not to the Tripura Stenographer service. Two stenographers had approached the Gauhati High Court by filing two

writ petitions being WP(C)No.245 of 1999 and WP(C)No.301 of 1999 for the benefit of up-gradation after four years of service. By the judgment dated 24.07.2014 delivered in WP(C)No.245 of 1999, this court had observed that the Junior Grade Stenographers are entitled to get automatic movement to the next higher grade on completion of four years of service in the lower grade as Junior Grade Stenographer but their pay shall be re-fixed notionally by giving the benefit, subject to condition that the monetary benefits shall be restricted till 14.06.1996 i.e. three years prior to filing of Civil Rule No.301 of 1999. It was also observed that such benefit shall only be available to the writ petitioners, not to the other stenographers who had not approached the court.

3. The respondents implemented the said judgment, but later on, a series of writ petitions were filed in this High Court and by a common judgment dated 15.12.2016, delivered in WP(C)No.371 of 2016, similar relief was extended to the Junior Grade Stenographers in terms of the judgment dated 24.07.2014 delivered in WP(C)No.245 of 2007 [Sri Anjan Deb Roy and Others versus State of Tripura and Others]. By the memorandum dated 06.10.2017, issued by the General Administration (Personnel & Training) Department, Government of Tripura, the said judgment was also implemented. Thereafter, the government has decided to adjust that scale up-gradation against the benefits of Career Advancement Scheme (CAS) and Assured Career Progression (ACP). The petitioners who were

appointed admittedly after 01.01.1996, claimed the similar benefit but such benefit has been denied by the respondents and as a result, they have approached this court seeking for extension of the similar benefit meaning the first scale up-gradation after four years of service in the grade of Junior Grade Stenographers.

4. The respondents, represented by Mr. D. Sharma, learned Addl. G.A. has given the conspectus of the facts relating to changes in the revision of pay rules and thereafter, it has been observed that since the petitioners were all appointed after 01.01.1996, their pay and allowances will be guided by Tripura State Civil Services (Revised Pay) Rules, 1999. The benefit that accrued in terms of the Tripura State Civil Services (Revised Pay) Rules, 1988 cannot be given to them because the operation of the said rules had come to an end on 31.12.1995. Furthermore, that cannot be extended inasmuch as the petitioners' pay and allowances from the date of their appointments were governed by the Tripura State Civil Services (Revised Pay) Rules, 1999 and the subsequent revision of pay rules.

5. Mr. D. Sharma, learned Addl. G.A. appearing for the respondents has submitted that similar claim by some other petitioners in WP(C)No.501 of 2019 etc. has already been decided by this court by the judgment dated 04.01.2020. It has been observed in that judgment as follows :

> **"[9] From the materials on record it can be seen that the grievance of the stenographers who were governed by ROP 1988 was that the said pay rules**

discriminated the cadre of stenographers for the purpose of granting higher grade upon completion of 4(four) years of service which was the provision made in favour of all other cadres. This Court found that the stand taken by the Government for denying such benefits to the stenographers under the said pay rules was illegal. Suitable directions were therefore issued in two separate judgments, as noted above. The Government has accepted the judgments and also issued necessary memoranda granting benefits to the eligible stenographers. However, the Government also considered the question whether such benefits could flow in favour of those stenographers who were appointed after 1st January, 1996. It was in this context, after deliberations, the impugned clarificatory memorandum came to be issued. This memorandum clarifies that such benefit would not be available to those stenographers who were appointed after 1st January, 1996. The reason for this clarification in its justification is not difficult to appreciate.

[10] ROP 1988 introduced certain features for ACP. The provision made for all cadres except the stenographers was that upon completion of 4(four) years of regular service without promotion the employee concerned would be placed in the higher grade scale of pay. In case of the Stenographers this period prescribed was 7(seven) years. This discrimination was eliminated by virtue of judgments of this Court in cases of *Anjan Chakraborty(supra)* and *Prabir Paul(supra).* The anomaly or discrimination *vis-à-vis* the stenographers and the rest of the employees thus stood removed. This, however, would not mean that the stenographers who were appointed subsequently after implementation of fresh pay rules, can claim continued benefit of Carrier Advancement in terms of ROP 1988. As is well-known, each revision of pay rules bring into effect fresh set of pay scales for different cadres in Government service and contained suitable provisions for ACP. With implementation of ROP 1999, provisions for ACP contained in such rules would come into operation. ROP 1999 would repeal ROP 1988. The recommendations for pay scales and pay revision with matching ACP provisions, as contained in ROP 1999, would then become operative. Those stenographers who were appointed after 1st January 1996, therefore cannot claim any benefit of ACP under ROP 1988. This is precisely what by the impugned clarification, has been provided. The memorandum thus is not only legal and valid, is also merely clarificatory in nature. To the extent it declares that stenographers appointed after 1st January, 1996 would not be entitled to the benefit of higher scale up-gradation under ROP 1988, it merely clarifies the provisions which even otherwise in law obtains.

[11] In a recent decision in case of *Suvarun Datta Vs. State of Tripura and Ors*. in *WP(C) No.99/2019* and connected petitions in the judgment dated 11th December, 2019 learned Single Judge of this Court considered the grievance of the petitioners who claimed the benefit of up-gradation under the previous revision of pay rules where they had not fulfilled the condition of completion of 10 years till the fresh ROP 2009 were implemented w.e.f. 1st January, 2006. In this context, while dismissing the petitions it was observed as under :

> **"8. It can thus be seen that the ROP, 2009 provided an entirely different scheme of Assured Career Progression replacing earlier modified Career Advancement Scheme contained in ROP, 1999. The admitted fact is that none of the petitioners completed the minimum qualifying service of 10 years for claiming the benefit of modified Career Advancement Scheme under the ROP of 1999 till 01.01.2006. All the petitioners completed 10 years of service as LDCs long after 01.01.2006. We have noticed that petitioner of WP(C) No.99 of 2019 completed such 10 years of service only in the year 2013. By the time, therefore, these petitioners had completed 10 years of service, ROP of 1999 no longer held the field. The ROP of 2009 were brought into existence, revised pay scales as per the said revision were implemented, petitioners had opted for being governed by the ROP of 2009.**

9. Under the circumstances, the petitioners cannot claim to enjoy the continued benefit of modified Career Advancement Scheme as per the Rules of 1999. Their entitlements of pay and other allowances as well as the career progression benefits would be traced only to the ROP of 2009. Any other view would bring about an anomalous situation. The employees such as the petitioners would be governed by the revised pay scales as per ROP, 2009 and corresponding pay fixations whereas they would receive benefit of career advancement as per the scheme contained in the ROP, 1999.

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Such a hybrid situation is neither envisaged under the rules, nor can be interpreted."

6. There is no difficulty in adopting the said analogy as the petitioners of those writ petitions being WP(C)No.501 of 2019 and WP(C)No.502 of 2019 and WP(C)No.503 of 2019 are similarly circumstanced.

As such, this court does not find any merit in this writ petition. Hence, this writ petition stands dismissed.

No order as to costs.

JUDGE

HIGH COURT OF TRIPURA

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