HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.389/2020

Sri Nanda Gopal Paul & others

----Petitioner(s)

Versus

The State of Tripura & others

-----Respondent(s)

Along with

WP(C) No.390/2020

Sri Shyamal Kanti Roy & others

----Petitioner(s)

Versus

The State of Tripura & others

-----Respondent(s)

WP(C) No.391/2020

Sri Dhiman Bhattacharjee & others

----Petitioner(s)

Versus

The State of Tripura & others

-----Respondent(s)

For Petitioner(s) : Mr. P. Roy Barman, Advocate,
Mr. Samarjit Bhattacharjee, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharjee, G.A.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

02/12/2020

This group of petitions arise in common background. They have been heard together and would be disposed of by this common

judgment. All the petitioners were appointed as Surveyors in the Public Works Department of the Government of Tripura prior to 01.01.1986. They were placed in the scale of pay of Rs.560-1300/- when the Revision of Pay Rules, 1988 was implemented by the State of Tripura w.e.f. 01.01.1986. Under these Rules, the post of Surveyor was trifurcated into three different grades namely Jr. Surveyor with pay scale of Rs.1300-3220/-, Surveyor to the pay scale of Rs.1450-3710/- and Sr. Surveyor to the scale of pay of Rs.1700-3980/-. The pay fixations of the petitioners were carried out under ROP, 1988. They were granted the scale of Jr. Surveyor and placed in the pay scale of Rs.1300-3220/-. According to the petitioners, this was incorrect since their original scale of pay of Rs.560-1300/- was to be matched with the revised scale of Rs.1450-3710/- which was assigned to the Surveyors. The petitioners point out that the Government also made this position clear in the memorandum dated 28.04.1990. Despite this, erroneous pay fixation of the petitioners continued. The petitioners had, therefore, prayed for correction of their pay fixations with consequential benefits.

2. Learned counsel for the petitioners drew my attention to various judgments of this Court in which Surveyors of the Government had approached the Court raising the same grievance. In their cases, the Court had directed correction of pay fixation from due dates. In particular, my

attention is drawn to a judgment dated 27.04.2005 by the Division Bench of Gauhati High Court in ***Writ Appeal No.48 of 1999*** in case of ***Shri Nimai Chandra Das vrs. The State of Tripura & others***, on the judgment dated 19.08.2013 of the Single Judge of this Court in ***WP(C) No.66 of 2008*** in case of ***Shri Sunil Baran Datta & others vrs. The State of Tripura & others*** and on the judgment dated 07.12.2018 passed by this Court in ***WP(C) No.637 of 2017*** and connected petitions in case of ***Sri Rajendra Majumder & others vrs. The State of Tripura & others***. It is pointed out that some of these cases pertained to Surveyors of other departments of the Government whereas the case of ***Rajendra Majumder*** (supra) pertained to the Surveyors of the PWD. In the case of ***Rajendra Majumder*** (supra) following directions were issued:

> "The petitioners will be fitted against the post of Surveyor in the Graded Scale No.9, Part-C of the ROP Rules, 1988 and their pay shall be fixed in terms of the fixation rules as provided in ROP Rules, 1988 or as modified subsequently, in the scale of pay of Rs.1450-3710/- and if they are to move to the higher graded scale of the Sr. Surveyor, they will also be entitled to the pay scale of Rs.5000-10300/- and in the event of their having moved to the grade of Sr. Surveyor within the currency of the ROP Rules, 1988, their pay shall be fixed in the scale of pay Rs.1700-3980/-. Regarding this, no dispute has been raised by the petitioners. However, per chance, if any of the petitioners had reached that level, their

> pay scale by virtue of the operation of the Tripura Civil Services (ROP) Rules, 1999 be raised to the corresponding scale as corollary. Accordingly, their pay shall be determined. However, the petitioners will not be get the financial benefit of the entire arrear. The payment of arrears shall be restricted to 3[three] years preceding from the date of filing of the writ petitions. For purpose of reference, though all the writ petitions were filed on 02.06.2017 and as such, the actual arrear shall be paid from 02.06.2014 and for the period subsequent thereto. So far the petitioners, who have retired from the service are concerned, their last pay be redetermined and their pension be revised accordingly. The arrears of pension be paid from 02.06.2014. Such payment of arrear in terms of this direction shall be made to the petitioners by the respondents within a period of 6[six] months from the date of receipt of the copy of this judgment and order. The petitioners shall file the copy of the order to the respondents."

3. The respondents have not been able to point out any distinction in facts of these cases. The respondents shall have to carry out the corrections in the pay fixations of the petitioners w.e.f. 01.01.1986. However, these petitions are filed decades after the cause of action arose. For over 30 years the petitioners took no effective steps for ventilating their grievances. Even if, therefore, the principle of wrong pay fixation resulting into recurring cause of action is applied, the petitioners cannot hope to get any substantial portion of their arrears of salary on the basis of correct pay

fixation. Even after employees similarly situated as the petitioners were agitating the issue before this Court and receiving positive judgments, the petitioners took no worthwhile steps for raising the disputes. First of the judgments was rendered by the Gauhati High Court on 27.04.2005. 15 long years have passed after this before the petitioners filed these petitions. The benefit of arrears is, therefore, limited to one year of filing of the writ petitions.

4. In the result, these petitions are disposed of with following directions:

The respondents shall carry out the correction in pay fixations of the petitioners w.e.f. 01.01.1986. They shall be placed in the scale of pay of Surveyor of Rs.1450-3710/- from the said date. There shall be consequential stage-wise correction in their pay structures. However, arrears on the basis of these corrections should be limited to a period of one year from the date of filing of the respective petition. The entire exercise shall be carried out within a period of 6(six) months from today.

Pending application(s), if any, also stands disposed of.

(AKIL KURESHI), CJ

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HIGH COURT OF TRIPURA