HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) No.492/2020

Sri Ranjit Kumar Debnath

.....Petitioner(s)

Versus

The State of Tripura and others

.....Respondent(s)

For Petitioner(s) : Mr. Arijit Bhaumik, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharjee, GA.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

19/11/2020.

Petitioner seeks following reliefs:

> "16. (iii) Issue rule calling upon the respondents to show cause as to why the Petitioner shall not be granted the benefit of 3rd ACP in the pay scale of Rs.5,000-10,300 in pay band-2 (Revised to Rs.5310-24,000 with grade pay of Rs.2,400) w.e.f the date of completion of 25 years in service along with all arrears of financial benefit along with consequential benefits.
>
> **AND**
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> Issue rule calling upon the Respondents to show cause as to why the communication dated 23/04/2013 whereby it has been provided that the Petitioner is not entitled to the benefit of 3rd ACP shall not be set aside and quashed."

Petitioner relies on a decision in case of ***Shri Dilip Kumar Guha Vs. The State of Tripura and others, W.P. (C) No.386 of 2015 and connected petitions*** dated 03.05.2016 rendered by learned Single Judge in which following directions were issued:

> "**24**. In view of the discussions made above, the writ petitions are allowed.
>
> **25**. The respondents are directed to sanction 3rd ACP to the petitioners i.e. the next higher graded scale of Rs.4200-8650/- i.e. the scale of Rs.5000-10,300/- in Pay Band-2, revised pay of Rs.5310-24,000/- with Grade Pay of Rs.2400/-.
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> **26**. The respondents shall comply the order within 90(ninety) days from today and the arrear amount, if any, shall be paid within 180 (one hundred eighty) days failing which it shall carry interest @ 6% per annum."

Counsel for the petitioner would point out that the Government had carried the said judgment of the learned Single Judge in appeal being ***W.A. No.111 of 2016***, which was dismissed by judgment dated 17.07.2019 making following observations:

> "15. We have given our anxious consideration to the submission made by the learned GA, but from reading of the relevant clarification as reproduced above, it appears that the case of the petitioner cannot be encompassed by the illustration/clarification as provided by the said memorandum dated 14.09.2009 (Annexure-R/1 to the reply filed by the appellant herein). The said

clarification provides that an employee who entered in the pay scale of Rs.3300- 7100/- got promotion to the scale of Rs.4200-8650 and thereafter got CAS benefit and moved to the scale of Rs.5000-10300/- and after revision under ROP Rules, 2009 if on completion of 25 years of his service, claims to get the benefit of 3rd ACP for moving to the grade pay corresponding to the revised pay scale of Rs.5500-1700/- whether he would be entitled to the same. What has been clarified is that the claim of 3rd ACP in such cases is not admissible on the ground that while entering into the pre-revised pay scale of Rs.5300-10700/- the employee has consumed three scale upgradations, i.e. Rs.4000- 7090/-, Rs.4200-8650/- and Rs.5000-10300/-.

16. This illustration cannot be applied or imposed on the petitioner's case, inasmuch as the petitioner entered into the service in the scale of pay of Rs.970-2400/- as revised under ROP Rules 1988. Thereafter, the petitioner was moved to the scale of Rs.1250- 2890/- by the office order dated 01.07.1998 (Annexure-2 to the writ petition) w.e.f. 21.05.1998 as the first scale up gradation for his completion of 10 years of service.

17. Thereafter, by the office order dated 08.04.2005 (Annexure-3 to the writ petition), the petitioner was given 2nd scale up-gradation to the scale of pay of Rs.4200-8650/- under Rule 10B of ROP Rules,1999. It may be elucidated that the said upgradation was made as per Annexure-A to ROP Rules, 1999. The said scale of pay of Rs.1250-2890/- was revised Rs.4000-7890/- and the next scale above the said pay scale was Rs.4200-8650/- as per Annexure-A of ROP Rules, 1999.

18. Thus, it is apparent that as the writ petitioner (the respondent herein) did not get any promotion in the post, the said clarification as reproduced above cannot be applied in this case.

> The learned Single Judge was absolutely right in holding that on completion of 25 years of service, the petitioner was entitled to move to the scale of Rs.5310-24000/- with grade pay of Rs.2400/-.
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> 19. We do not find any merit in this appeal and accordingly the same is dismissed.
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> 20. The appellants, the respondents in the writ petition, shall give the effect of 3rd ACP from the date when the petitioner had completed 25 years of service i.e. 21.09.2012 or any other date as per record, within a period of 90 days from today and the arrear amount accruing from such movement shall be paid within the same stipulated time. In view of the pendency of the appeal, we are not inclined to direct payment of interest.
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> There shall be no order as to costs."

Learned counsel for the petitioner further pointed out that the decision of this Court in case of ***Shri Dilip Kumar Guha (supra)*** has been implemented by the respondents. Subsequently, similar issue came up before this Court in case of ***Shri Anil Sutradhar Vs. The State of Tripura and others***, in ***W.P. (C) No.1208 of 2017***, which was disposed of by a judgment dated 29.06.2020. Referring to and relying upon the decision in case of ***Shri Dilip Kumar Guha (supra)***, the writ petition was disposed of as under:

> "[7] The issues being squarely covered by the above-mentioned judgments of this Court, I have no hesitation in allowing the petition. It is directed that the respondents shall grant the benefit of 3 rd ACP to the petitioner in the scale of pay(pre

revised) Rs.5000-10300/- (corresponding revised scale of PB-2 Rs.5310-24,000/- with Grade Pay of Rs.2400/-) w.e.f 25th September, 2012. Such pay fixation shall be done with consequential effect. The petitioner shall be entitled to arrears of salary. Entire exercise including payment of arrears shall be completed within 4(four) months from today. Petition disposed of accordingly. Pending application(s), if any, also stands disposed of."

The respondents have filed reply admitting that the decision in case of ***Dilip Kumar Guha (supra)*** has been implemented. They have not pointed out any distinction on material facts between the case of the petitioner and that of ***Anil Sutradhar (supra)***.

Under the circumstances, it is directed that the respondents shall grant the benefit of 3rd ACP to the petitioner in scale of pay (corresponding revised scale of PB-2 Rs.5310 – 24,000/- with Grade Pay of Rs.2400/-) with effect from the date he completed 25 years of service. This fixation shall be done with consequential effect including payment of arrears. The entire exercise along with payment of arrear shall be completed within 6 (six) months from today.

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

(AKIL KURESHI), CJ

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