HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.675/2020

Sri Kanakjyoti Deb Kanungo.

…….. *Petitioner(s).*

Vs.

The State of Tripura and Ors.

…….. *Respondent(s).*

WP(C) No.676/2020

Sri Ranjit Kishore Roy.

…….. *Petitioner(s).*

Vs.

The State of Tripura and Ors.

…….. *Respondent(s).*

For Petitioner(s) : Mr. Samarjit Bhattacharjee, Advocate.
For Respondent(s) : Mr. Bidyut Majumder, Asstt. S.G.,
Mr. D Sharma, Addl. Govt. Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

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17/12/2020

Rule.

Learned Assistant Solicitor General, Mr. Bidyut Majumder, waived Rule on behalf respondent No.4 and learned Additional Government Advocate, Mr. D Sharma, waived Rule on behalf of State-respondents.

In view of the fact the case of the petitioners is squarely covered by a judgment dated 24/31st of January, 2020 passed in ***WP(C) No.430 of 2019*** in case of ***Sri Binoy Bhushan Nag Vs. State of Tripura and Ors*** it is not necessary to call for formal replies.

In case of ***Binoy Bhushan Nag****(supra)*, the High Court had considered the validity of a cut-off date of 1st January, 2009 contained in Rule-5 of Revision of Pay Rules, 2009 for implementation of the reduction in qualifying service from 33 years to 25 years for admissibility of full pension. While holding that such cut-off date was illegal and that the benefit would be available to all employees who had retired after 1st January, 2006 would be entitled to the benefit thereof. The Court also considered the question of delay and laches in approaching the High Court. Relevant portions of the said judgment read as under :

> *"[18] A question of gross delay of filing the present group of petitions must be addressed before granting final relief. Undisputed facts are that though the ROP 2009 were promulgated on 1.1.2009, the petitioners did little to ventilate their grievances before an appropriate forum till filing of the present petitions. Learned counsel for the petitioners however, submitted that representations were made in the year 2015 and 2018 which were not decided by the respondents. By settled law making of series of representations would not save limitation or cannot be cited as a reason for approaching the Court after gross delay and latches. In any case, the first representation on record is of the year 2015 which itself was six years after the*

promulgation of the impugned rule. However, the petitioners are seeking higher pension which accrues on month to month basis and is thus a continuing cause. Only on the ground of delay and latches therefore, these petitions cannot be thrown out without any relief to the petitioners. They must however, forego the past benefits flowing from this decision.

[19] In the result, all petitions are disposed of with following directions and declarations:

(1) The cut-off date of 01.01.2009 contained in Rule 5 of the ROP 2009 for applicability of reduced length of qualifying service for receiving full pension is held unconstitutional.

(2) Consequently, all the petitioners who have retired after 01.01.2006 would receive the benefit flowing from Rule 5 of ROP 2009 irrespective to the fact that they retired prior to 1.1.2009.

(3) The respondents shall verify the service details of the petitioners, re-fix their pension in terms of Rule 5 of the ROP 2009. Such pension fixation and its periodic revision would be done on notional basis from the date of the retirement till the date of filing of the petitions after which all the petitioners would be entitled to actual difference in pension prospectively. Entire exercise shall be completed within a period of four months from today.

[20] Petitions are disposed of. Pending application(s), if any, also stands disposed of."

These petitioners also after putting in 25 years of service retired after 1st January, 2006 but before 1st January, 2009. Accordingly, they would also get the benefit of the said judgment. The directions contained

in the said judgment would *mutatis mutandis* apply in the present cases. Time limit for completion of the entire exercise would be 4(four) months from today. Both the petitions are disposed of accordingly.

Rule made absolute.

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

(AKIL KURESHI, CJ)

HIGH COURT OF TRIPURA



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Sukehendu