HIGH COURT OF TRIPURA
AGARTALA

W.A. 202 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Shah Alam ----Respondent(s)

Alongwith W.A. 203 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Khursed Alam and anr. ----Respondent(s)

W.A. 204 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Siraj Uddin and anr. ----Respondent(s)

W.A. 205 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Abu Tahar and anr. ----Respondent(s)

W.A. 206 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Firuj Ali and anr. ----Respondent(s)

W.A. 207 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Shafeequr Rahaman ----Respondent(s)

W.A. 208 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Azir Uddin and anr. ----Respondent(s)

W.A. 209 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Abdul Malik and anr. ----Respondent(s)

W.A. 210 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Rafique Ahmed and anr. ----Respondent(s)

W.A. 211 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Nurul Islam and anr. ----Respondent(s)

W.A. 215 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Rafiq Miah and anr. ----Respondent(s)

W.A. 216 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Ataur Rahaman and anr. ----Respondent(s)

W.A. 218 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Abdullah Ahmed and anr. ----Respondent(s)

W.A. 219 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Jaher Uddin and anr ----Respondent(s)

W.A. 220 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Safiqul Islam and anr. ----Respondent(s)

W.A. 221 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Safiqual Islam and anr. ----Respondent(s)

W.A. 222 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Eqbal Hossain Bhuiya and anr. ----Respondent(s)

W.A. 223 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Safiullah and anr. ----Respondent(s)

W.A. 224 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Joynal Hossain and anr. ----Respondent(s)

W.A. 226 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Joynal Abdin Kazi and anr. ----Respondent(s)

W.A. 227 of 2019

The State of Tripura ----Appellant(s)

Versus

Md. Abdus Sahid and anr. ----Respondent(s)

For Appellant(s)	:	Mr. D. Bhattacharjee, Advocate
For Respondent(s)	:	Mr. S. Deb, Sr. Advocate Mr. SS Datta, Advocate

WP(C) 901 of 2019

Md. Abdur Zahir Baksh @ Abdur Zahir Boks ----Petitioner(s)

Versus

The State of Tripura and ors. ----Respondent(s)

Alongwith WP(C) 902 of 2019

The State of Tripura ----Petitioner(s)

Versus

The State of Tripura and ors. ----Respondent(s)

For Petitioner(s)	:	Mr. S. Deb, Sr. Advocate Mr. S. Datta, Advocate
For Respondent(s)	:	Mr. D. Bhattacharjee, Advocate

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE ARINDAM LODH

Order & Judgment (ORAL)

11/02/2020

(Akil Kureshi, C.J.)

These appeals arise out of a common judgment of a learned Single Judge dated 30.11.2017 passed in WP(C) 439 of 2016 and connected petitions in case of Md. Eqbal Hossain Bhuiya vs. State of Tripura and others.

The writ petitions are similar to those which the learned Single Judge has already decided by the said order dated 30.11.2017, but were filed lateron. They have been tagged with State Appeals.

Brief facts are, that all the petitioners are working as teachers in various Madrassas in the State of Tripura holding the post of Graduate and Post Graduate Teachers, as the case may be. Many of these Madrassas were brought under the Grant-in-Aid code by the State government over a period of time ranging

from 1990 to 2010. All the petitioners are thus the teachers of Madrassas which are covered by Grant-in-Aid code. By a notification dated 3rd June, 2010, the Government of Tripura notified certain degree certificates issued by various educational institutions which will be treated as equivalent to Madhyamik, HS (+2 stage), Graduate and Post Graduate degree courses of Tripura Board of Secondary Education and Tripura University. Such notification reads as under:

" NOTIFICATION

The Governor of Tripura has been pleased to notify that following Degree Certificates issued by the West Bengal Madrassa Board, State Madrassa Board of Assam and other Madrassas/ Boards recognized by any Central/State Government or University of India will be treated as equivalent to Madhyamik, H.S. (+2 Stage), Graduate and Post Graduate degree courses of Tripura Board of Secondary Education and Tripura University:

Sl. No	General Qualification of TBSE and TU	West Bengal madrassa Board	Assam Madrassa Board	Other Madrassa Degrees recognized by any Central/ State Govt. Board or University of India
1.	Madhyamik/SSC	Alim	Dakhil	……
2.	H/S (+2 stage)	Fazil	Madrassa Intermediate, PU or HSLC	Alimiat, Alimat
3.	Graduate	i) Kamil 2 years/ 3 years (General) ii) M.M. 2 years (upto 1997)	Madrassa Final (F.M.)	i) Fazil ii) Afjal/Ulama iii) Afjalul Ullom iv) Fazealat
4.	Graduate (Hons)	3 years Kamil (Hons)	……..	……..
5.	Post Graduate	M.M. 2 years from 1998 onward	Madrassa Title (M.M.)	……

N.B.:- *F.M. denotes Fadilul Ma-Arif/Fadiul Marif
***M.M. denotes Mamtazul Muhaddithin**
***PU denotes Pre-University &**
***HSLC denotes Higher Secondary School Leaving Certificate.**

Equivalency of above degree certificate has been classified and finalized by the Education (School) Department. This will take immediate effect from 01-04-2010."

All the petitioners possess Degree Certificates issued by one of the above named institutions and thus their certificates were equated and equivalated with that of the relevant certificate courses of Tripura Board of Secondary Education and Tripura University.

On 19.07.2013, the Government issued a notification, which reads as under:

" NOTIFICATION

8 (eight) nos. of Madrasa Teachers having M.M. / Title Degrees, who are serving in Grant-in-Aid Madrasas as shown in enclosed Annexure-A, shall be entitled to draw their fixed pay keeping abeyance the scale of pay Rs. 5,300-24,000/ with Grade Pay 2400/- (P.B.-2) w.e.f. 1st August, 2013. Similarly, 33 (thirty-three) nos. Madrasa Teachers of Grant-in-Aid Madrasas having F.M. degrees whose names have been shown in the enclosed Annexure-B, shall be entitled to draw their fixed pay keeping abeyance the Scale of Pay Rs. 5,300-24,000/ with Grade Pay 2100/- (P.B.-2) w.e.f. 1st August, 2013.

The Inspector of Schools/DDOs are hereby instructed to send the budget proposal for their fixed salaries as per rate of modified scale of pay to the Madrasa Section of this office".

As per this notification w.e.f. 1st August, 2013, 33 Madrasa teachers of Grant-in-Aid Madrassas having necessary degrees would draw salary in the scale of pay of Rs. 5,300-24,000/- with grade pay of 2,100 (P.B.-2). This list of 33 teachers excluded the petitioners. They, therefore, filed the above referred writ petitions.

Before the learned Single Judge the stand taken by the Government in the affidavit-in-reply was that the petitioners are not entitled to be placed in the said pay scale as their services were brought under the Grant-in-Aid w.e.f. 01.01.2010 while the employer institute was brought within the Grant-in-Aid code. Elaborating this contention, learned Government Advocate submitted that the Government of Tripura had initiated steps for recruiting teachers in various schools including the Madrassas in the year 2009. Only those who were recruited after the said recruitment drive were granted the regular pay scale, that too after completion of 5 years of service in fixed salary.

The learned Single Judge was of the opinion that there was no distinction between the educational qualifications or the duties performed by the petitioners vis-a-vis those 33 teachers who were covered by the said notification dated 19.07.2013. The learned Single Judge, therefore, issued appropriate directions holding that all the petitioners would be entitled to draw the salary in the regular scale after completion of five years or from the date when such period would be completed. The arrears would be paid within six months.

Having heard learned counsel for the parties and having perused the documents on record, we see no substantial error in the view of the learned Single Judge. The Government does not dispute that all the petitioners are serving as regular teachers, Graduate as well as Post Graduate in educational institutions which are covered within the fold of Grant-in-Aid. All the petitioners also possess requisite educational qualifications acquired from various educational institutions situated in West Bengal and Assam which by the notification dated 23.06.2010 have been recognized as equivalent to the degrees issued by Tripura Education Board and Tripura University. That being the position, there is no distinction in either the educational qualifications or the nature of duties performed by the petitioners vis-a-vis 33 teachers who under the said notification dated 19th July, 2013 are granted certain pay scale. In absence of any other distinction, mere fact that some of the teachers were employed prior to a cut-off date and some post the said date of

23.06.2010, could not be a ground for denying equal wages. The decision to treat specified degrees issued by educational institutions situated in West Bengal and Assam as equivalent to those issued by Tripura Education Board and Tripura University, may have been taken on 23rd June, 2010, the same must be applied to all those who have been granted such certificates irrespective of the date of grant of the same. Any other view would make the qualifications of the petitioners not satisfying with the requirements of employment. Even otherwise, the said notification dated 23rd June 2010, nowhere provides that only those teachers who obtained such certificates from the specified institutions after the date of the notification can claim equivalence with the State certificates. Even the State has not raised any such contention.

The cause of action arose with the Government passing the impugned notification dated 19th July 2013. The petitions were filed nearly 3 years later. We would not, therefore, burden the State exchequer with the arrears till the date of filing of the petitions. In partial modification of the impugned common judgment of the learned Single Judge, it is provided that the petitioners would be entitled to arrears of salary as per the directions of the learned Single Judge only from the date of the filing of the respective petitions and not from any early period. The modified directions of the learned Single Judge shall be carried out within a period of 4(four) months from today.

So far as the writ petitions are concerned, it is directed that the respondents shall place the petitioners in pay scale as per the decision dated 19th July, 2013 after verifying that they have completed 5 years of service as teachers. They will be entitled to arrears only from the date of filing of the petitions and not from any earlier period. The modified directions of the learned Single Judge as well as those contained in this judgment shall be complied within 4 (four) months from today.

With this limited relief, all appeals and writ petitions are disposed of.

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

(ARINDAM LODH),J **(AKIL KURESHI),CJ**

HIGH COURT OF TRIPURA
सत्यमेव जयते

Saikat