HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.1354/2019

Smt. Arati Bhowmik.

…….. Petitioner(s).

Vs.

State of Tripura and Ors.

…….. Respondent(s).

For the Petitioner(s) : Mr. Raju Datta, Advocate.
For the Respondent(s) : Mr. D Sharma, Addl. Govt. Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

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07.02.2020

Heard learned counsel for the parties for final disposal of the petition.

[2] Petitioner was engaged as a Part Time Worker in the Food, Civil Supply and Consumer Affairs Department w.e.f 1st July, 1989. She would point out that as per the Government record, the respondent No.7 was engaged in the same department on part-time basis w.e.f 1st January, 1991.

[3] Petitioner would further point out that in an order dated 28th December, 2013 it is recorded that the part-time workers who were engaged prior to 31st March, 2003 and have completed 10 years of service as on 30th November, 2012 were engaged on Daily Rated Worker(DRW), Gourp-D from 1st December, 2012. The list of workers so engaged as DRW includes the names of the petitioner

as well as respondent No.7. Despite this, the department passed an order dated 25th June, 2009 regularising the service of respondent No.7 from 19th June, 2019. The petitioner has, therefore, made a grievance that the person who was engaged initially after the engagement of the petitioner, has secured regularization earlier and the petitioner is excluded. The record would, however, show that previously the petitioner had filed the writ petition *[WP(C) No.36/2016]* for the purpose of regularization. The High Court dismissed the writ petition making following observations :

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> 04. The respondents by filing the counter-affidavit have seriously disputed the claim of the petitioner and contended that before 01.12.2012 the petitioner was working as the Part Time Worker and in consideration of her service as the Part Time Worker by the memorandum dated 28.12.2013 she has been declared as the DRW with effect from 01.12.2012. According to the respondents, the petitioner is not covered by the memorandum dated 31.01.2009 (Annexure-P/6 to the writ petition) as the said memorandum applies to the category of employees viz. Full-time DRW/Casual/Contingent workers. The petitioner did not complete 10(ten) years of service as full-time DRW and hence the claim of the petitioner is entirely without any basis. The respondents have also filed a copy of the representation dated 06.12.1995 submitted by the petitioner where the petitioner herself has stated that she was engaged as a Part Time Worker on 2(two) hours basis. However, she had prayed for regularisation of her service on compassionate ground. With leave of this court, the respondents filed one additional affidavit. There the respondents have categorically averred that:

> **"In all the registers the Petitioner's name was recorded as part time worker for 02 hours only. It is true that in the year 2010 and 2011 register, they have admitted that in the registers of 2010 and 2011 the Petitioner signed twice though she was recorded as part time worker for 02 hours and not a full time employee. Again they have asserted that the petitioner is not entitled to regularisation as prayed."**

05. The petitioner has filed copies of pages of some attendance registers with the writ petition (Annexure-P/9). For the month of November, 2003, this court has noticed that the petitioner signed twice a day which is in contrast to the submission made by the respondents in their additional affidavit and for that reason by the order dated 02.08.2016, learned Addl. G.A. was requested to 'produce the relevant attendance registers as relied by the petitioner in the writ petition on the next date.' Today Ms. A.S. Lodh, learned Addl. G.A. appearing for the respondents has produced the relevant attendance registers. While compared the relevant pages with the original registers, it sprang a surprise. The shocking surprise that sprang out is that the photocopy which has been submitted by the petitioner is not tallying with the original register at all. From the original registers it transpired that the petitioner signed only once contrary to the petitioner's claim. Thus, it is clear that the petitioner manipulated or distorted the page for producing the same in the court to derive some undue advantage. This conduct of the petitioner is not only reprehensible but is an act to pollute the stream of justice. Considering that the petitioner is working as a DRW, this court is refraining from taking any stringent action. However, it is recorded by this court that such act cannot be condoned and this court records 'reprimand' against the said conduct of the petitioner. Moreover, what has appeared to this court is that since 25.01.2010, the petitioner has been working for the full-time, as is evident from the communication

dated 10.02.2010 of the Sub-Divisional Magistrate, Dharmanagar. For regularisation of the petitioner's service the said date is relevant. The day for purpose of counting the service as the DRW [full-time], has to be counted from 25.01.2010. On completion of 10(ten) years from 25.01.2010, the petitioner shall be considered for regularisation in terms of the Government policy.

07. With this observation and direction, this petition stands disposed of. There shall be no order as to costs.

* * * *"

[4] The petitioner filed a review petition *[Review Pet. No.67/2019]* which was dismissed on 27th September, 2019 in following manner :

"Heard Mr. R. Datta, learned counsel appearing for the review petitioner as well as Mr. M Debbarma, learned Addl. GA appearing for the respondents.

This is a petition for review of the order dated 31.08.2016 delivered in WP(C) No.36 of 2016.

Mr. Datta, learned counsel submits that juniors of the petitioner have become regularized w.e.f. 01.02.2018 but the petitioner has not been regularized. Al these are introduced for the first time. The veracity is required to be established by the petitioner.

This court is constrained to observe that there is no error apparent for which the order dated 31.08.2016 calls from modification.

Hence, this review petition stands dismissed.

In the judgment already it has been observed that on completion of 10 years from 25.01.2010, the petitioner shall be considered for regularization in terms of the Government policy. If a fresh cause arises in respect of

regularization, the petitioner may file a fresh writ petition."

[5] In view of the said decisions, it is not possible to reopen the petitioner's case for earlier regularization. The statement in the affidavit-in-reply that the petitioner along with 5(five) others have been regularized as DRW Group – D from 1st December, 2012, must be seen as converting the petitioners part- time service into Daily Rated Worker and does not refer to her regularization in the department. The department had objected to the materials placed on record by the petitioner with which the Court had concurred. Only opportunity reserved was for consideration of regularization after completion of 10 years from 25th January, 2010. This was reiterated in the review order also.

Under the circumstances, the petition is dismissed. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI), CJ

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