

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C). No. 192 of 2016	WP(C). No. 301 of 2016
WP(C). No. 205 of 2016	WP(C). No. 272 of 2016
WP(C). No. 206 of 2016	WP(C). No. 271 of 2016
WP(C). No.207 of 2016	WP(C). No. 239 of 2016
WP(C). No. 208 of 2016	WP(C). No. 238 of 2016
WP(C). No. 209 of 2016	WP(C). No. 237 of 2016
WP(C). No. 210 of 2016	WP(C). No. 236 of 2016
WP(C). No. 211 of 2016	WP(C). No. 234 of 2016

WP(C). No. 192 of 2016

Smt. Shyamali Dey(Deb),
wife of late Sadhan Chandra Deb,
resident of Fulkumari, Udaipur, P.O. Fulkumari, Udaipur, District: Gomati
Tripura

.....**Petitioner**

- V E R S U S -

1. T he State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... **Respondents**

WP(C). No. 205 of 2016

Smti. Kajal Rani Sutradhar,
wife of late Manindra Chandra Sutradhar
resident of Gakulpur, Udaipur, P.O. Radhakishorepur, Udaipur, District:
Gomati Tripura

.....**Petitioner**

- V E R S U S -

1. T he State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. the Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... **Respondents**

WP(C). No. 206 of 2016

Smt. Sukla Roy Barman,
wife of late Makhanlal Roy Barman,
resident of Gakulpur, Udaipur, P.O. Radhakishorepur, Udaipur, District:
Gomati Tripura

.....Petitioner

- VERSUS -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 207 of 2016

Smt. Usha Rani Sutradhar,
wife of late Sukumar Chandra Sutradhar,
resident of Barabhaiya, P.O. Bagma, P.S. R. K. Pur, Udaipur, District: Gomati
Tripura

.....Petitioner

- VERSUS -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 208 of 2016

Smt. Kalpana Rani Barik,
wife of late Babul Barik, resident of Dhajanagar, P.O. Gakulpur, Udaipur,
District: Gomati Tripura

.....Petitioner

- VERSUS -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 209 of 2016

Smt. Pushpita Bhowmik,
wife of late Sadhan Bhowmik, resident of Dhajanagar, P.O. Gakulpur,
Udaipur, District: Gomati Tripura

.....Petitioner

- V E R S U S -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 210 of 2016

Smt. Usha Rani Sarkar,
wife of late Ruhidas Sarkar, resident of Durjoynagar, Udaipur, P.O.
Gakulpur, Udaipur, District: Gomati Tripura

.....Petitioner

- V E R S U S -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 211 of 2016

Smt. Gita Deb,
wife of late Indrajit Deb, resident of Vill- Nagicharra, P.O. Ranir Bazar,
District: West Tripura

.....Petitioner

- V E R S U S -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 234 of 2016

Smt. Laxmi Rani Sutradhar,
wife of late Rakhil Sutradhar, resident of Surjymoni Nagar, District: West
Tripura, Pin- 799130

.....Petitioner

- V E R S U S -

1. T he State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 236 of 2016

Smt. Basanti Acharjee,
wife of Bhopal Acharjee, resident of Vill: Barjala, P.O. Barjala, P.S. Ramnagar
Outpost, Agartala, District: West Tripura

.....Petitioner

- V E R S U S -

1. T he State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 237 of 2016

Smt. Baishaki Baraik,
wife of late Subal Ram Baraik, resident of Vill: Gunjaria Tilla, P.S. A. D.
Nagar, P.O. S. D. Mission, Agartala, District: West Tripura

.....Petitioner

- V E R S U S -

1. T he State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,

Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 238 of 2016

Smt. Jhunu Rani Acharjee,
wife of late Babul Saha, resident of Vill: Bhati Abhoynagar, Cantonment
Road, Near Punjab Tailor, Agartala, West Tripura, Pin:799001

.....Petitioner

- VERSUS -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 239 of 2016

Smt. Putul Baraik,
wife of late Nandalal Baraik, resident of Vill: Gunjaria Tilla, P.O. S. D.
Mission, Agartala, District: West Tripura

.....Petitioner

- VERSUS -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 271 of 2016

Smt. Laxmi Dey,
wife of late Kalipada Dey, resident of Kathaltali, P.O. Ranirkhamar, P.S.
Amtali, District: West Tripura

.....Petitioner

- VERSUS -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura

2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 272 of 2016

Smt. Mina Deb,
wife of late Makhan Lal Deb, resident of Vill: Uttar Badharghat, P.O. A. D.
Nagar, Agartala, District: West Tripura

.....Petitioner

- V E R S U S -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

WP(C). No. 301 of 2016

Smt. Kanak Sutradhar,
wife of late Khagendra Chandra Sutradhar, resident of Vill & P.O. Karailong,
P.S. Teliamura, District: Khowai Tripura

.....Petitioner

- V E R S U S -

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Department of Industries & Commerce, Govt. of Tripura , Khejur Bagan, P.O. Agartala, District: West Tripura
2. The Director of Industries,
Government of Tripura, Khejur Bagan, Kunjaban, Pin: 799006, District:
West Tripura

..... Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners	: Ms. S. Deb Gupta, Advocate
For the respondents	: Mr. S. Chakraborty, Addl. G.A.

Date of hearing & delivery : 16.12.2016
of Judgment and order
Whether fit for reporting : NO

Judgment and Order(Oral)

All these petitions being WP(C) No. 192 of 2016 [Smt. Shyamali Dey (Deb) v. State of Tripura & Ors.], WP(C) No. 205 of 2016 [Smt. Kajal Rani Sutradhar v. State of Tripura & Ors.], WP(C) No. 206 of 2016 [Smt. Sukla Roy Barman v. State of Tripura & Ors.], WP(C) No. 207 of 2016 [Smt Usha Rani Sutradhar v. State of Tripura & Ors.], WP(C) No. 208 of 2016 [Smt Kalpana Rani Barik v. State of Tripura & Ors.], WP(C) No. 209 of 2016 [Smt Puspita Bhowmik v. State of Tripura & Ors.], WP(C) No. 210 of 2016 [Smt Usha Rani Sarkar v. State of Tripura & Ors.], WP(C) No. 211 of 2016 [Smt Gita Deb v. State of Tripura & Ors.], WP(C) No. 234 of 2016 [Smt Laxmi Rani Sutradhar v. State of Tripura & Ors.], WP(C) No. 236 of 2016 [Smt Basanti Acharjee v. State of Tripura & Ors.], WP(C) No. 237 of 2016 [Smt Baishaki Barik v. State of Tripura & Ors.], WP(C) No. 238 of 2016 [Smt Jhunu Rani Acharjee v. State of Tripura & Ors.], WP(C) No. 239 of 2016 [Smt Putul Barik v. State of Tripura & Ors.], WP(C) No. 271 of 2016 [Smt Laxmi Dey v. State of Tripura & Ors.], WP(C). No. 272 of 2016 [Smt Mina Deb v. State of Tripura & Ors.] and WP(C). No. 301 of 2016 [Smt Kanak Sutradhar v. State of Tripura & Ors.], are consolidated and clustered for disposal by a common judgment

inasmuch as issues are common and setup in an identical conspectus of facts.

[2] Heard Ms. S. Deb Gupta, learned counsel appearing for the petitioners as well as Mr. S. Chakraborty, learned Addl. G.A. appearing for the respondents.

[3] Ms. S. Deb Gupta, learned counsel appearing for the petitioners has submitted that these writ petitions are squarely covered by a decision of this Court in **Sri Hiralal Debnath v. State of Tripura & Ors.** [judgment and order dated 30.11.2016 in **WP(C) No. 144 of 2016**].

[4] Mr. Chakraborty, learned Addl. G.A. appearing for the respondents has however submitted that all the petitioners in this batch of writ petitions have approached this Court after an inordinate delay. Even the industrial workers in respect of whose pay scale, the grievance has been raised in these writ petitions did not approach any forum for redressal in their life time. The writ petitioners in these cases are getting family pension after death of those industrial workers. As such, he has stoutly contended that all these writ petitions are hit by principle of laches and hence, those may not be decided on merit.

[5] Per contra, Ms. Deb Gupta, learned counsel appearing for the petitioners has submitted that it is a perennial deprivation inasmuch as if the relief is granted, that would impact increase in the

family pension. Thus, not only industrial workers but as the beneficiary of the property that was created by the industrial workers and have their own independent cause to approach this Court.

[6] For purpose of appreciating the controversy, some relevant facts may be introduced in the beginning. The petitioners have contended that the industrial workers through whom they are raising their grievance were regularized as the industrial workers w.e.f. 01.04.1979 by an order dated 21.08.1979 by the Department of Industries.

[7] But they were wrongly placed in the pay scale of Rs. 170-210/- whereas they were entitled to the pay scale of Rs. 240-440/- w.e.f. 01.04.1979. Some of the similarly situated industrial workers had approached the Industrial Tribunal through the reference and the said reference was registered as the Labour Case No. 01 of 1998. By the judgment and award dated 14.12.2000, the Industrial Tribunal had declared that the industrial workers were entitled to the pay scale of Rs. 240-440/- w.e.f. 01.04.1979.

[8] The said order was challenged by the State by filing a writ petition being WP(C) No. 546 of 2001 in the Gauhati High Court which had then the jurisdiction over the matters in the State of Tripura. By the judgment and order dated 15.11.2002 the Gauhati High Court affirmed the judgment and award of the Industrial Tribunal.

[9] Even though, the State had preferred special leave petition against the said judgment dated 15.11.2002 but the special leave petition was dismissed and such dismissal has been recorded in the judgment dated 08.10.2013 passed by this Court in WP(C) No. 07 of 2006. That fact has not been contested by Mr. Chakraborty, learned Add. G.A. appearing for the respondents. It is an admitted position of fact that the State by issuing the order dated 17.03.2005 implemented the said judgment and award passed by the Industrial Tribunal and those industrial workers were given the pay scale of Rs. 240-440/- w.e.f. 01.04.1979.

[10] Some other industrial workers had approached this Court by filing the writ petitions being WP(C) No. 490 of 2005, WP(C) No. 491 of 2005, WP(C) No. 305 of 2005 and WP(C) No. 306 of 2005 and the similar relief was granted to them. The State by the order under No. F.DI / ESTT / IV-27 /2013 / 18686-761, dated 29.12.2014 has implemented the judgment as stated and the benefit of the pay-scale of Rs. 240-440/- w.e.f. 01.04.1979.

[11] In the present case, the industrial workers were indisputably similarly circumstanced to that of the referring claimants and the other writ petitioners who had filed the other writ petitions. But after death of the industrial workers, the writ petitioners as the legal heir of the industrial workers in favour of the petitioners of those writ petitions are getting the family pension on the basis of devolution of pay scale of Rs. 170-210/- as those

industrial workers against whom the petitioners herein are getting the family pension did not in their tenure of service or in the life time, get the said pay scale of Rs. 240-440/- w.e.f. 01.04.1979, even though the State had implemented the same pay scale for those industrial workers who had approached this Court. Having noticed the deprivation perennially, the petitioners have approached this Court.

[12] Ms. Deb Gupta, learned counsel appearing for the petitioners has referred to the judgment and award dated 14.12.2000 passed by the Industrial Tribunal in Labour Case No. 01 of 1998 as published in the Tripura Gazette Extra Ordinary Issue dated 09.04.2001 (**Annexure-4** to the writ petition being WP(C) No. 192 of 2016).

[13] Ms. Deb Gupta, learned counsel appearing for the petitioner has further referred to the judgment and order dated 15.11.2002 as passed in WP(C) No. 546 of 2001 (**Annexure-5** to the writ petition being WP(C) No. 192 of 2016) whereby the industrial award was affirmed by the High Court on discarding the challenge thrown by the State.

[14] Thereafter, Ms. Deb Gupta, learned counsel has also referred some other previous decisions of this Court as referred above, such as the common judgment and order dated 29.04.2014, delivered in a batch of writ petitions being WP(C) No. 490 of 2005

etc., and contended that the doctrine of laches will not apply in these cases as these are the cases on perennial deprivation and the deprivation still continues.

[15] In this regard, Ms. S. Debgupta, learned counsel appearing for the petitioners has referred to a decision of the Apex Court in **State of Madhya Pradesh v. Jogendra Shrivastava**, reported in (2010) 12 SCC 538 where the Apex Court has held as under:

“18.We cannot agree. Where the issue relates to payment or fixation of salary or any allowance, the challenge is not barred by limitation or the doctrine of laches, as the denial of benefit occurs every month when the salary is paid, thereby giving rise to a fresh cause of action, based on continuing wrong. Though the lesser payment may be a consequence of the error that was committed at the time of appointment, the claim for a higher allowance in accordance with the Rules (prospectively from the date of application) cannot be rejected merely because it arises from a wrong fixation made several years prior to the claim for correct payment. But in respect of grant of consequential relief of recovery of arrears for the past period, the principle relating to recurring and successive wrongs would apply. Therefore the consequential relief of payment of arrears will have to be restricted to a period of three years prior to the date of the original application. [See: M.R. Gupta vs. Union of India (1995) 5 SCC 628, and Union of India vs. Tarsem Singh (2008) 8 SCC 648]”.

[16] So far the doctrine of laches is concerned, in the common judgment and order dated 29.04.2014 delivered in WP(C) No. 490 of 2005 etc., (**Annexure-7** to the writ petition being WP(C) No. 192 of 2016) it has been held as under:

“5. In view of the above decision of the Apex Court, the present writ petitions may be allowed keeping in view of the judgment passed by this Court in WP(C) No.7 of 2006 but the relief in respect of arrears should be restricted to the extent of three years prior to the date of original application. It may be mentioned here that the judgment of the apex Court in the case of Jogendra Sreevastava (supra) was not referred while passing of the judgment of WP(C) No.7 of 2006.

6. Accordingly, both the writ petitions are allowed in terms of the judgment passed in WP(C) No.7 of 2006 and subsequent judgment passed in WP(C) No.305 of 2005 and WP(C) No.306 of 2005, subject to the consequential relief in respect of payment of arrears restricted to a period of three years prior to the date of original application filed by the petitioners of the present cases.

7. Both the writ petitions were filed on 07.12.2005 and so the petitioners of both the writ petitions shall be allowed consequential reliefs of payment of arrears restricted to a period of three years prior to the date of filing of these petitions.”

[17] Mr. Chakraborty, learned Addl. G.A. appearing for the respondents has admitted that the said judgment and order dated 29.04.2014 has been implemented by the State. This Court does not find why the writ petitioners will not get similar benefits through the industrial workers against whose right they have approached this Court as after death of the industrial workers. They have right on the same property. Hence, the writ petitioners have their own independent cause.

[18] The writ petitioners are indisputably the legal heirs of the industrial workers. It is now well recognized that the pension or the family pension is the property created out of the employment. Thus, this Court, in view of that the ratio laid down in **Jogendra Sreevastava** (supra), is of the opinion that the doctrine of laches would not apply in these cases rather the principle of recurring and successive wrongs would apply.

[19] Having regard to the judgment and order dated 29.04.2014 (**Annexure-7** to the writ petition being WP(C) No. 192 of 2016), this Court is of the view that the pay of the industrial workers against whose entitlement the writ petitioners have

approached this Court, shall be re-fixed in the scale of pay of Rs. 240-440/- w.e.f. 01.04.1979 with admissible allowance. Thereafter, the revised pay scale shall be accounted against those industrial workers against the pay scale of Rs. 240-440/- till their retirement and for purpose of pension and family pension.

[20] Accordingly, the pension and the retiral benefits of those industrial workers be re-fixed by the respondents. Thereafter, the family pension of the petitioners shall be re-fixed in terms of this order. But the consequential financial benefits in respect of the payment of arrears against the family pension shall be restricted to a period of 3 (three) years prior to the date of filing of the writ petition. Such arrear shall be paid to the petitioners within a period of 6 (six) months from the day when the petitioners shall submit a copy of this judgment and order. For purpose of record, this writ petition was filed in this High Court on 11.03.2016. The day of filing of the writ petition in respect of the other writ petition has been recorded in the order passed separately in those writ petitions.

Accordingly, these writ petitions stand allowed to the extent as indicated above. There shall be no order as to costs.

JUDGE

A.Ghosh