

THE HIGH COURT OF TRIPURA

AGARTALA

WP(C). No. 64 of 2017

Smt. Laxmi Deb,
Wife of Shri Pijush Kanti Das,
Resident of Kacherghat, P.O. Kailashahar, Unakoti, Tripura

.....Petitioner

- VERSUS -

1. The State of Tripura,
represented by the Secretary to the Government of Tripura, Social Welfare
Department, New Secretariat, P.O. Kunjaban, Agartala, West Tripura
2. The Engineer-in-Chief, PWD (R & B), Government of Tripura, Agartala

.....Respondents

BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner	: Ms. A. Chakraborty, Advocate
For the respondents	: Mr. S. Chakraborty, Addl. G.A.
Date of hearing & delivery of Judgment	: 30.06.2017
Whether fit for reporting	: NO

Judgment and Order(Oral)

Heard Ms. A. Chakraborty, learned counsel appearing
for the petitioner as well as Mr. S. Chakraborty, learned Addl. G.A.
appearing for the respondents.

[2] Admittedly, the petitioner was appointed as Casual
Group-C employee in the Public Works Department on 17.01.2000
but the petitioner, in terms of the government policy as embodied in

the memorandum dated 21.01.2009, was not regularized from the next day on completion of 10 (ten) years of service.

[3] The petitioner has been regularized w.e.f. 11.06.2013 in the post of Lower Divisional Clerk (LDC, in short) in the scale of pay of Rs. 5,310 - 24,000/-, [Pay Band-2] with Grade pay of Rs. 1,800/- with other allowances as admissible from time to time. From the office order dated 11.06.2013, **Annexure-1** to the writ petition, it has appeared that the said regularization has been made in pursuant to the government policy as enunciated in the memorandum under No. F.10 (2)-FIN (G)/2008(P) dated 21.01.2009 read with the memorandum dated 08.04.2013 of the Finance Department.

[4] The petitioner felt aggrieved by the said action of the respondents which amounts to forfeiture of certain financial benefits. To support the contentions, the petitioner has relied on the office order dated 17.11.2012 under No. F.6 (29)-PWD (E-II)/2008 whereby the similarly situated persons who were appointed from the next date when they had completed 10 years of their service. The petitioner has urged this Court to extend the similar benefit.

[5] Mr. S. Chakraborty, learned Addl. G.A. appearing for the respondents has submitted that the Public Works Department has acted in terms of the communication made by the Finance Department. By the memorandum dated 08.04.2013, the Finance Department has clearly stated that the regularization be effected

from the date of joining in the concerned regular post. Thus, there is no discrimination as alleged.

[6] Mr. Chakraborty, learned Addl. G.A. has further submitted that from the memorandum dated 08.04.2013 (**Annexure-R/1**) it would clearly transpire that DRWs, Casual/Contingent workers and fixed pay workers who were engaged on or prior to 31.03.2003 on full time basis in different PSUs and other autonomous organizations with or without concurrence of the Finance Department and have completed 10 years of service as on 31.07.2012 other than the part time workers, teachers and workers engaged under SSA and other schemes programmers is and has been considered for this process of regularization.

[7] Mr. Chakraborty, learned Addl. G.A. appearing for the respondents has further submitted that since the petitioner was appointed before 31.03.2013 and had completed 10 years of service, the petitioner has been given the benefit.

[8] Ms. A. Chakraborty, learned counsel appearing for the petitioner has in reply submitted that this memorandum cannot have any application in the matter of regularization of the petitioner inasmuch the said memorandum is fundamentally for the DRWs/Casual and contingent etc., workers working under the different PSUs and other autonomous organizations with or without concurrence of the Finance Department. But the memorandum dated 21.01.2009 covers the entire case of the petitioner and the petitioner

has been regularized not in terms of the memorandum dated 08.04.2013 but in terms of the memorandum dated 21.01.2009.

[9] In the memorandum dated 21.01.2009, it has been categorically provided that the persons who are working as the DRWs/ Casual /Contingent workers and who are engaged on full time basis would be entitled to the benefit of regularization from the next date when they would be completed 10 years of service in such capacity. Thus, this Court finds substantial force in the submission made by Ms. A. Chakraborty, learned counsel appearing for the petitioner.

[10] Having held thus, the respondents are directed to give the effect of the regularization of the petitioner in the post of LDC in the above scale of pay w.e.f. 17.01.2010. The arrears pay and allowances for the period from 17.01.2010 to 17.11.2012 shall be paid within a period of 6 (six) months from the day when the petitioner shall submit a copy of this order.

With these observations and direction, the writ petition stands allowed to the extent as indicated above. There shall be no order as to costs.

JUDGE

A.Ghosh