

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.75 of 2016

1. The State of Tripura, represented by the Secretary to the Government of Tripura, Education (Higher) Department Civil Secretariat, Capital Complex, Agartala, P.S. East Agartala, P.O. Kunjaban-799006, West Tripura.

2. The Secretary to the Government of Tripura, Finance Department, Civil Secretariat, Capital Complex, Agartala, P.S. East Agartala, P.O. Kunjaban-799006, West Tripura.

3. The Director of Higher Education, Government of Tripura, Agartala, Old Secretariat Complex, P.S. West Agartala, P.O. Agartala-799001, West Tripura.

-----Appellant(s)

Versus

1. Sri Nabarun Das Gupta, S/o. Sri Narayan Das Gupta, Resident of Pragati Road, Keishnanagae, P.O. Agartala-799001, P.S. East Agartala, District- West Tripura.

2. Sri Raja Chakraborty, S/o. Late Shanti Pada Chakraborty, Govt. Quarter No.IV/51, Kunjaban Township, P.O. Kunjaban-799006, P.S. East Agartala, West Tripura.

3. Sri Samir Kanti Bhusan, S/o. Late Nishi Kanti Bhusan, Resident of Bhati Abhoynagar (West), P.O. Agartala-799001, P.S. East Agartala, West Tripura.

-----Respondent(s)

For Appellant(s) : Mr. D. Sharma, Addl. G.A.

For Respondent(s) : Mrs. S. Deb (Gupta), Advocate.

**HON'BLE THE CHIEF JUSTICE MR. AJAY RASTOGI
HON'BLE MR. JUSTICE ARINDAM LODH**

Order

31/07/2018

The present writ appeal is directed against the judgment dt.19th April, 2016 filed at the instance of the State of Tripura.

[2] The facts, in brief that culled out and relevant for the present purpose, are that the writ petitioners joined service as Lecturer in the Polytechnic Institute, Agartala after their selection through TPSC and on upgradation to Polytechnic Institute to Tripura Institute of Technology (for short, TIT) under the policy decision of the State Government vide notification dt.26th February, 2007 they were absorbed as Lecturer and became member of TIT vide order dt.18th June, 2008 on certain terms and conditions which are referred/annexed to the order of their appointment. While they were serving as a Lecturer in the Degree level Technical Institutes (TIT & erstwhile TEC), the Government of Tripura came with a notification dt.31st March, 2010 implementing the pay of the Teachers including Principals in Degree level Technical Institutions be fixed in the revised pay scales in the respective fitment tables as communicated and notified by the Ministry of HRD dt.4th June, 2009 and the State Government as a matter of policy adopted and implemented the revised pay structure as per the norms prescribed by the AICTE for the teachers in Degree level Technical Institutes w.e.f. 01-01-2006.

[3] The writ petitioners were serving as a Lecturer in Polytechnic institute and were absorbed under the policy decision of the State Government dt.26th February, 2007 on upgradation of Polytechnic institute to Tripura Institute of Technology (for short, TIT) vide order dt.18th June, 2008 and their existing pay scales at the time of absorption were duly protected and their previous service rendered as a Lecturer in Polytechnic Institute being

acknowledged by the State obviously they become entitled for Pay Band-IV taking note of the previous service rendered by the writ petitioners became relevant for the purpose of their further promotion and revision of Pay Band to which the teachers became entitled for and the service rendered as a Lecturer in Polytechnic Institute indisputedly cannot be obliterated for the purpose of revision of Pay Band and other benefits to which the Lecturers were entitled for.

[4] The Ld. Single Judge also after due appreciation of materials on record in Para 13 took note of the impediment which the writ petitioners would have suffered if the plea of the respondent-State is taken into account and we do appreciate and concurred with the view expressed by the Id. Single Judge that the service rendered by the writ petitioners prior to become member of TIT under a policy decision of the Government vide order dt.18th June, 2008 could not have been obliterated for the purpose of fixation in Revised Pay Band which each of them was entitled for and in the absence of a policy decision of the State Government each of them would have been entitled for Pay Band-IV on completion of their qualifying service while working as Lecturer in Polytechnic Institute.

[5] In a given circumstances, their absorption and becoming member of TIT under order dt.18th June, 2008 in no manner could have been detrimental to their interest including the fixation of Pay Band which they were entitled for under the rules prescribed by the AICTE which as a policy was accepted by the State

Government and made applicable w.e.f. 01-01-2006 and this what the Id. Single Judge observed in Para 13 of the impugned judgment holding that each of them on completion of 3 years of service become entitled for their revision of Pay Band to which they were otherwise entitled for while serving as Lecturer regardless to the fact whether it was Polytechnic or a degree Institute run by the TIT.

[6] The submission of the appellant's counsel is that under the notification dt.31st March, 2010 the State Government has adopted the revised pay structure w.e.f. 01-01-2006 but the teachers of TIT became entitled for the service rendered in the Degree level Technical Institutions in terms of Ministry of HRD notification dt.4th June, 2009(Annexure-II) and each of the petitioner has exercise option as referred to in Clause-7 and accordingly they were treated to be a teacher including Principal of TIT from the date of absorption and the service which they had rendered prior to their absorption while became member of TIT under order dt.18th February, 2006 could not be considered as the service rendered for the purpose of revision of Pay Band and each of them has exercise option is not entitled to claim the previous service rendered as a Lecturer in Polytechnic Institute for all practical purposes and this, according to the learned counsel for the appellant, is an error being committed by the Id. Single Judge in passing of the judgment impugned and needs interference of this court.

[7] The submission of the appellant's counsel is without substance for the reason that the Lecturers who are serving earlier in the Polytechnic Institute were duly selected through the TPSC and it was the policy decision of the State Government to upgrade the Polytechnic Institute under its notification dt.26th February, 2007 to TIT and that clearly indicates that all such Lecturers serving in Polytechnic Institute are absorbed as a Lecturer in TIT and their pay scales are protected under order dt.18th February, 2006 and any order detrimental to the interest of the teachers at later point of time is not sustainable, more so, when it is not the case of the respondents that the service conditions of the Lecturers while serving in the Polytechnic Institute or in TIT are different in character on the contrary it has been brought to our notice that the academic qualifications and other conditional service for recruitment to the post of Lecturer in Polytechnic Institute/degree Institute are one and the same and once the Lecturers/teachers fulfilled the conditions of eligibility including the academic qualifications with the pay scales being protected by the State Government under its order dt.18th February, 2008, their past service rendered as Lecturer in Polytechnic Institution cannot be obliterated for any practical purposes and what being contended in the notification dt.31st March, 2010 on which much emphasis has been laid by the appellant's counsel is not relevant for the purpose of their revision of Pay Band which the Id. Single Judge has considered in the impugned judgment.

[8] After we have heard counsel for the parties we find no error being committed by the Id. Single Judge in passing of the judgment impugned which may call for our interference. Consequently, the writ appeal is without substance and dismissed.

(ARINDAM LODH), J

(AJAY RASTOGI), CJ

*All corrections made in the judgment/order
have been incorporated in the judgment/order.*

Dipesh

