

**HIGH COURT OF TRIPURA
AGARTALA**

W.P.(C) No.678 of 2019

Sri Sankar Debbarma,
son of Sri Ashuranjan Debbarma,
resident of Village-Jaganarayan Para,
P.O. Bara Maidan, P.S. Kalyanpur,
District : Khowai Tripura, PIN : 799203.

----Petitioner(s)

Versus

1. The State of Tripura,
represented by the Commissioner & Secretary,
Education Department, Government of Tripura,
having his office at Secretariat Building,
P.O. Kunjaban, P.S. New Capital Complex,
District : West Tripura, PIN : 799006.

2. The Commissioner & Secretary,
Finance Department, Government of Tripura,
having his office at Secretariat Building,
P.O. Kunjaban, P.S. New Capital Complex,
District : West Tripura, PIN : 799006.

3. The Director of School Education,
Education Department, Government of Tripura,
having his office at Shiksha Bhawan, Office Lane,
P.O. Agartala, P.S. West Agartala, District : West Tripura.

----Respondent(s)

For Petitioner(s) : Mr. Somik Deb, Adv.

For Respondent(s) : Mr. N. Chowdhury, G.A.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

31/05/2019

Heard Mr. Somik Deb, learned counsel appearing for the petitioner as well as Mr. N. Chowdhury, learned G.A. appearing for the respondents.

2. The grievance as projected in this petition falls within a short compass. The petitioner herein was appointed as the Post Graduate Teacher under the School Education Department by the memorandum dated 15.07.2010 [Annexure-1 to the writ petition] on

fixed pay basis. Thereafter, by the memorandum dated 05.11.2015, the petitioner was given the regular scale of pay with effect from 26.08.2015. Subsequently, in terms of the judgment dated 07.05.2014 delivered in W.P.(C) 51 of 2014 titled as **Tanmoy Nath and Ors. vs. State of Tripura and Ors.** selection and appointment of the petitioner were quashed.

3. In terms thereof, the petitioner was terminated from the service as the attempt to assail in the apex court did not succeed. But in **Tanmoy Nath** (supra) in para-125 the following observation had been made:

"We would also like to made it clear that other than the benefits indicated by us above there can be no reservation/preference on the basis of age. There shall be no preference to dependent government servants or retired government employee or retrenched employees etc. There can be no reservation for linguistic or religious minorities or an area wise basis. It is further made clear that if the persons who are selected in the previous selection are again selected then the service rendered by them earlier shall be counted for the purpose of seniority, pension and all other purposes."

4. The petitioner has been reappointed by a de novo selection vide the memorandum dated 20.10.2017 [Annexure-5 to the writ petition] in the same post i.e. Post Graduate Teacher on a fixed monthly pay of Rs.22,785/- (Rupees twenty two thousand seven hundred and eighty five).

5. The respondents at the time of appointing the petitioner in the said capacity did not give the benefit as reflected in paragraph-125 of **Tanmoy Nath** (supra).

6. Being aggrieved, the petitioner has approached this court.

7. Mr. Deb, learned counsel appearing for the petitioner has submitted that this case is squarely covered by a decision of this court vide the order dated 21.01.2019 as delivered in W.P.(C) No.435 of 2018 titled as **Babul Debnath and Ors. vs. The State of Tripura and Ors.**, where this court, in the identical circumstances in respect of benefits as reflected in the said para-125, has observed as follows:

"As such, in our considered view, the writ petition needs to be allowed with a direction to the State to treat the past service Page 14 of 14 of each one of the petitioner(s), so rendered in relation to the earlier selection process, for the purposes of seniority, pension and all other benefits. All consequential action shall positively be undertaken by the State within a period of 3(three) months. Equally, monetary benefits, if any, shall be disbursed within the aforesaid period."

It is to be noted here that the appointments are made on the fixed pay basis by keeping the regular pay scale in abeyance for five years.

8. In terms of **Babul Debnath** (supra), mutatis mutandis, the petitioner's pay has to be re-fixed by the respondents within a period of three months from the date when the copy of this order shall be furnished to the respondent, the Director of School Education. If any arrear accrues from this order, that shall be paid within the said period. That apart, all benefits as reflected in para-125 such as seniority, counting of the service period for pension and other financial benefits shall be released to the petitioner in due course.

9. Mr. N. Chowdhury, learned G.A. appearing for the respondents has fairly acceded that this case is squarely covered by the said decision in **Babul Debnath** (supra).

In terms of the above, this petition stands allowed and disposed of.

No order as to costs.

JUDGE