

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.1270 of 2019

Sri Sushanta Tapadar,

son of Sri Joydeb Tapadar, resident of Dalura, P.O. Khayerpur,
P.S. Ranirbazaar, West Tripura, PIN-799035

.....Petitioner

-VERSUS-

1. The State of Tripura,

Represented by the Principal Secretary, Tourism,
Department of Tourism, New Secretariat Complex,
P.S. New Capital Complex, P.O. Secretariat, Agartala,
District- West Tripura, PIN- 799010

2. The Principal Secretary, Tourism

Department of Tourism, New Secretariat Complex,
P.S. New Capital Complex, P.O. Secretariat, Agartala,
District- West Tripura, PIN- 799010

3. Tripura Tourism Development Corporation Ltd.,

(A Government of Tripura Undertaking), represented by Managing
Director, having its registered office at Swat Mahal, Palace
Compound, P.O. Agartala, P.S. West Agartala, West Tripura-799001

4. The Secretary, Finance Development

Government of Tripura, New Secretariat Building Complex,
P.S. New Capital Complex, P.O. Secretariat, Agartala,
District- West Tripura, PIN- 799010.

....Respondents.

For Petitioner (s)	:	Mr. DC Saha, Advocate
For Respondent (s)	:	Mr. D. Bhattacharjee, GA
Date of hearing & delivery of judgment & order	:	31.10.2019
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT & ORDER

1. Heard Mr. DC Saha, learned counsel appearing for the petitioner as well as Mr. D. Bhattacharjee, learned GA appearing for the State-respondents.

2. The short issue involved in this writ petition, is that, whether the petitioner is entitled to be regularized in the post of Manager. The writ petitioner was first appointed on contractual basis for a period of one year and it was time to time extended upto 2017 on contract basis. During such contractual service, the State-respondents had issued a memorandum dated 18.10.2017, wherein, the petitioner was appointed on Fixed Pay Basis w.e.f. 01.08.2017. The said memorandum dated 18.10.2017, is reproduced here-in-below for convenience:

' No. F.1(122)-TT/HRD/2016/5234-49

Dated, Agartala, the 18/10/2017

MEMORANDUM

In pursuance of the memorandum No. F.1(122)-TT/HRD/2016/5125-33, Dated, Agartala, the 16/10/2017 and in conformity with the concurrence of the Finance Department U.O. No. 292/FIN(G) dated 08.06.2017, memorandum No. F.1(1)-GA(CAB)/2017-A, dated August, 01, 2017 and decision of the 23rd Board of Directors meeting held on dated 12/09/2017, 9 (nine) numbers of existing contractual staff (names enclosed) of Tripura Tourism Development Corporation (TTDCL) is filled up on fixed pay basis with effect from 01.08.2017'.

3. Mr. DC Saha, learned counsel appearing for the petitioner has submitted that the petitioner is entitled to be regularized as he has completed more than eight years of service and according to policy laid down by the Government of Tripura, an employee is entitled to get regularized after completion of five years of service.

4. On the other hand, Mr. D. Bhattacharjee, learned GA appearing for the State-respondents has submitted that for initial five years, the petitioner was on contractual service and only in the year 2017, he was appointed on regular Fixed pay Basis w.e.f. 01.08.2017. So, in terms of the policy, the petitioner will be entitled for regularization of his service after completion of five years w.e.f. 01.08.2017. The policy dated 16.10.2007, is reproduced here-in-below for convenience:

**“GOVERNMENT OF TRIPURA
DEPARTMENT OF FINANCE**

NO. F.10(2)-FIN(G)/05/Part-I

Dated, the 16th October, 2007

MEMORANDUM

Subject: *Providing of different benefits to employees recruited on fixed pay basis by keeping abeyance regular pay scale posts.*

Under a policy decision of the State Govt. a system was introduced in the later part of year 2001 for recruitment of Group-C and D staff (other than uniformed personnel) on fixed pay basis by keeping abeyance the concerned regular pay scale posts. Under the system, first of all fixed-pay Posts are created against available regular pay scale posts with concurrence of the Finance Department. After than candidates are selected by the Departments on observance of all required formalities in compliance to the provisions of RR for the concerned regular pay scale posts and recruited on fixed pay basis. The fixed pay amount is determined under formula 75% of initial basic pay in the time scale for Group-D posts and 65% of the initial basic pay in the time scale for Group-C employees. Further a number of fixed pay posts including supernumerary posts were/are also created/continued to be created for providing jobs under die-in-harness cases/extremists violence cases. Subsequently in the budget declaration of 2006-07, a policy decision was announced to the effect that such fixed-pay employees on completion of 5(five) years of service will be provided regular pay scale.

2. Although the above category of Fixed-pay employees were recruited on observance of all required formalities of selection including formal creation of posts and adherence to the provisions of the concerned RR, it is observed that they are yet to get service benefits viz. leave, Die-in-harness scheme, seniority and counting of full service of fixed pay period for the purpose of pension and retirement benefits and maintenance of service records like regular Government employees.

3. On consideration of the above position, it has been decided to provide following benefits:

(i) Those employees who were recruited on fixed pay basis against fixed pay posts created by keeping abeyance regular scale posts and recruited on observance of all required formalities including adherence to provisions of RR would be provided benefit of leave, coverage under Die-in-harness scheme, seniority in service like regular pay scale employees, counting of full fixed pay period for the purpose of pension and retirement benefits. Identical benefits would be provided to the fixed pay employees appointed against supernumerary posts created in different departments for providing jobs under extremist violence cases/die-in-harness cases. Department-wise list of such employees whose particulars have been found consistent with the requirement is enclosed herewith.

(ii) Service records of these employees would be maintained by opening of service book for each of such fixed pay employees.

(iii) After opening of the service book and on completion of 5(five) years of service from the date of joining, such employees would be provided regular scale of pay.

4. To facilitate quick action for implementation of the above decision, appropriate authorities of the concerned Administrative Departments of the State Government are authorized to take following action:

(i) For the purpose of extending the benefits, only those names are to be considered which are included in the annexure attached herewith subject to verification of all required

certificates and documents. Benefit in respect of leave is to be extended to such Fixed-Pay employees with effect from 1st October, 2007.

(ii) After verification of required certificates and documents and on completion of 5(five) years of service without any break, regular pay scale would be provided from the following date.

(iii) After getting benefit of regular scale of pay, the concerned employee will be eligible to get admissible DA and other benefits.

(iv) If any genuine case is found left out in the enclosed annexure, that may be referred to the F.D. to consider inclusion.

(v) In future wherever new candidates will be recruited under Fixed-pay post created by keeping abeyance regular scale post, their names and particulars will have to be sent to the F.D. for extending the aforesaid benefits to them.

5. All departments are requested to take action immediately for implementation of the above decisions”.

5. After perusal of the policy, it is clear that the petitioner was in contractual service upto 01.08.2017. As such, no right is conferred upon him to claim regularization. However, the petitioner was absorbed in his post as Manager on regular fixed pay basis. In terms of the policy, he is entitled to be regularized in service with regular pay scale after completion of five years of service w.e.f. 01.08.2017. It is settled law that the court will not interfere with the policy decision of the State government which is framed with a definite object and purpose and unless and until, it does not suffer from the vice of arbitrariness. Further, in view of the policy laid down by the government that regularization can be claimed only after completion of five years of service as regular fixed pay employee, the present writ petition filed by the petitioner is pre-mature one and does not deserve consideration.

6. Accordingly, the present writ petition is dismissed being bereft of merit.

JUDGE