

**HIGH COURT OF TRIPURA**  
**AGARTALA**

WP(C) No.494/2020

Sri Raju Debnath and Ors.

..... *Petitioner(s)*.

Vs.

The State of Tripura and Ors.

..... *Respondent(s)*.

For Petitioner(s) : Mr. Samarjit Bhattacharjee, Sr. Advocate.

For Respondent(s) : Mr. Debalaya Bhattacharjee, Government Advocate.

**HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI**

**\_O\_R\_D\_E\_R\_**

**26/11/2020**

Petitioners seek regularization of their services as Junior Engineers(Electrical) in Agartala Municipal Corporation(AMC). These four petitioners were engaged as Junior Engineers on fixed salary basis w.e.f 24<sup>th</sup> November, 2008, 8<sup>th</sup> January 2008, 11<sup>th</sup> April, 2008 and 2<sup>nd</sup> February, 2009 respectively. They made representations to the AMC to regularize their services and to grant them regular pay scales. AMC in turn approached the Government of Tripura seeking necessary permission in this respect.

In a detailed note presented on behalf of AMC dated 3<sup>rd</sup> November, 2017 a copy of which is produced at Annexure - 6 to the petition, the background of engagement of the petitioners on contractual

basis has been given. It is further highlighted that they are performing important duty of monitoring the street lights, internal electrification of buildings etc. and their services are essential for smooth functioning of AMC, Electrical Division. It was, therefore, proposed that by giving one time relaxation in the recruitment rules their services may be regularized. However, it appears that there was no positive response from the Government in this regard upon which the petitioners have approached this Court.

Learned counsel for the petitioners vehemently contended that the petitioners have discharged satisfactory service for over 10 years. Even the AMC is in favour of regularization of their services. The Government may be directed to give necessary permission in this respect. Counsel submitted that the Supreme Court in case of *Amarkant Rai Vs. State of Bihar and Ors.* reported in (2015) 8 SCC 265 has elaborately dealt with the Constitution Bench judgment in case of *Secretary, State of Karnataka and Ors. Vs. Uma Devi(3) and Ors.* reported in (2006) 4 SCC 1 and the said decision has been explained. He submitted that regularization of employees working for long years is not completely shut out.

In my opinion, the petitioners have not made out any case for entertaining this petition. The petitioners are not Group - D staff who have

been engaged by the employer and made to work for years together without granting any benefits of regularization. The petitioners were engaged as Junior Engineers on contractual basis. Neither the petitioners nor the AMC in the internal correspondence produced before the Court has stated that the petitioners were engaged after regular selection process of inviting applications from all eligible candidates and holding a test for selection. Thus, by default it can be presumed that the petitioners were engaged without following any process of selection process whatsoever.

Under such circumstances, regularising their services only on account of long tenure of *ad-hoc* service would be in breach of Articles 14 and 16 of the Constitution of India and violate the principle of equal opportunity in public employment. Further, from the note dated 3<sup>rd</sup> November, 2017 of AMC one can gather that the AMC follows 100 point roster for reservation in favour of Schedule Castes and Scheduled Tribe candidates and only one out of the four posts of Junior Engineer is available to unreserved candidate. The request, therefore, is made to waive the requirements of recruitment rules which would include granting age relaxation, waiving reservation points as well as conducting selection test of all eligible candidates for appointment. Any such regularization would amount to a back door entry as strongly criticized by Supreme Court in Constitution Bench judgment in case of *Uma Devi(supra)*.

Learned counsel for the petitioners, however, submitted that the employer AMC also desires that the services of the petitioners be regularized considering their long satisfactory service and the important role being played by them in the organization. It is precisely because in large number of Government and Semi Government organizations the employers themselves first appointed workers on casual or *ad-hoc* basis and thereafter regularized their services, that the situation came to an impasse where such public posts were not being made available to all eligible candidates to seek appointments on. This practice was strongly criticized by Supreme Court in case of *Uma Devi(supra)*. The prayer of the petitioners for regularization of service cannot be granted.

However, this does not mean that AMC can continue to exploit the situation by engaging the Engineers for an indefinite period on fixed term contractual basis though the sanctioned posts are available. The question of fair remuneration to be paid to the petitioners even on their contractual engagement is also not gone into in this petition.

In the result, subject to above observations the petition is dismissed. Pending application(s), if any, also stands disposed of.

( AKIL KURESHI, CJ)