

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.792 OF 2020

Smt. Tulsi Rani Das,

W/o Sri Narayan Das,

Presently posted as Helper Gr.-II,

Office of the Senior Manager, Udaipur, Electrical Sub-Division,

Udaipur, Gomati, Tripura, Resident of Village-1 No. Ward,

Rajnagar, P.O. Udaipur Court, P.S. R.K. Pur, Sub-Division-

Udaipur District-Gomati, Tripura, Pin: 799116.

----- Petitioner

Versus

1) The State of Tripura,

Represented by the Principal Secretary, Department of Power,
New Secretariat Complex, Khejur Bagan, PO. Kunjaban, P.S.
New Capital Complex, District-West Tripura, Pin-799 006.

2) The Principal Secretary, Department of Finance, New
Secretariat Complex, Khejur Bagan, P.O. Kunjaban P.S. New
Capital Complex, District-West Tripura, Pin-799 006.

3) The Tripura State Electricity Corporation Limited, (A
Government of Tripura Enterprise), Represented by the
Chairman-having its Head Office at Bidyut Bhavan, North
Banamalipur, Agartala, District-West Tripura, Pin. 799 001.

4) The Chairman, Tripura State Electricity Corporation
Limited, Tripura, Bidyut Bhavan, North Banmalipur, Agartala,
District-West Tripura, Pin. 799 001.

5) The Managing Director, Tripura State Electricity
Corporation Limited, Tripura, Bidyut Bhavan, North
Banamalipur, Agartala, District-West Tripura, Pin. 799 001.

-----Respondents

For the Petitioner(s) : Mr. T.K. Chowdhury, Advocate.

For the Respondent(s) : Mr. N. Majumder, Advocate.
Mr. A. Dey, Advocate.

Date of hearing and delivery of

Judgment & Order : 30.09.2021

Whether fit for reporting : NO.

HON'BLE MR. JUSTICE ARINDAM LODH
J U D G M E N T & O R D E R (O R A L)

Heard Mr. N. Majumder, learned counsel appearing for the respondents-TSECL as well as Mr. K. De, learned Addl. G.A. and Mr. H. Sarkar, learned counsel appearing for the respondent-State.

2. In this writ petition, the petitioner was engaged as a contingent worker on 02.01.1999 under the respondents. The contention of the petitioner is that the State-Government had formulated a scheme vide memorandum dated 9th June 2009 for regularization of all casual/contingent/DRWs workers working under the State-Government. It is admitted position that Tripura State Electricity Corporation Limited (TSECL) has adopted the said scheme for regularization of all contingent/casual/DRWs workers engaged and working under it.

3. One of the provisions of the scheme, is that, in the case of contingent workers, who had completed 10(ten) years of service as on 31.03.2008, shall be eligible for regularisation as Group-D employees. The petitioner had received an offer of appointment dated 10.09.2015, issued by the General Manager (*Finance and Company Secretary*), TSECL. However, this offer of appointment was kept in abeyance vide communication dated 18.09.2015. But, the

same was withdrawn vide office order dated 07.08.2017. It is also contemplated in the said memorandum for regularisation that the workers who had not completed 10 years of service as on 31.03.2008, but, otherwise deserved to be regularized, their cases would be considered upon completion of 10 years of service. The petitioner has completed 10 years of service as a contingent worker on 01.01.2009. Clause-C of the said memorandum dated 9th June 2009 issued by the Department of Finance, Government of Tripura contemplates that workers belonging to Scheduled Tribe and Scheduled Castes communities, who had been engaged on or before 31.03.2003, and whose names and particulars were issued vide memorandum No.F.10(2)-FIN(G)/2005 dated 14.03.2008, would be eligible for regularisation w.e.f. 01.12.2007. Petitioner is a member of the Scheduled Caste community and his name is included at Serial No.152 in the list published by the Finance Department declaring the names of contingent workers eligible for regularisation. According to the list, the service of the petitioner ought to have been regularized w.e.f. 01.12.2007, since the petitioner was engaged as a contingent worker before 31.03.2003. Learned counsel for the petitioner has further submitted that the service of the similarly situated workers, who were even juniors to the petitioner were regularized, but the petitioner was deprived of the same benefit inspite of his eligibility for regularisation as stated above.

4. Mr. Chowdhury, learned counsel appearing for the petitioner has drawn my attention to a judgment passed by a coordinate Bench of this Court (Akil Kureshi, C.J.) in WP(C) No.704 of 2019, titled as *Smt. Susmita Chakraborty Vs. The State of Tripura and Ors.*

5. In the above-mentioned writ petition, learned counsel appearing for the Corporation had made the following submissions:-

"Learned counsel for the electricity corporation submitted that the corporation is prepared to regularize the petitioner notionally from the due date after completion of 10 years of service in terms of the said memorandum dated 9.6.2009 which scheme for regularization the corporation was also adopted. In view of the statement, the petitioner's first grievance would stand resolved. The corporation is expected to pass fresh order granting due date of regularization to the petitioner giving it notional benefit for the past period. However, if any person junior to the petitioner is regularized from an earlier date, there has to be an explanation for the same or the corporation shall have to make some adjustment for not disturbing the seniority of the petitioner vis-à-vis her junior.

6. On consideration of the said submissions, a coordinate Bench of this Court (Akil Kureshi, C.J.) while disposing of **Susmita Chakraborty(supra)** had passed the following order(s):-

"Under the circumstances petition is disposed of on the following directions:

(i) The corporation shall pass consequential order in terms of the statement made and recorded hereinabove within a period of two months from today.

(ii) Once this order is passed, the petitioner may make a representation to the concerned authority for correct seniority in the regular cadre. The concerned authority shall consider the same and pass a speaking order within two months from the date of receipt of the representation.

(iii) If there any grievance still surviving it would be open for the petitioner to agitate the same in accordance with the law."

7. Having taken note of the said order, in my opinion, the petitioner is also entitled to get similar treatment. Accordingly, this writ petition also is disposed of with similar directions as was given in ***Susmita Chakraborty(supra)***

8. Before I conclude, one point is to be noted herein that the facts related to WP(C) No.704 of 2019 were known to Mr. Majamder, learned counsel appearing for the respondents-TSECL. It was on the basis of his submission, the learned coordinate Bench of this Court had passed the above orders. But, I have noticed that from the very beginning of the hearing of this writ petition, the learned counsel tried to misled this Court and thus, wasted a valuable time of the Court. In view of the above, I am constrained to impose a cost of Rs.10,000/- upon the respondents-Corporation for the above conduct of Mr. Majumder, learned counsel. The said cost has to be deposited with the State Legal Services Authority within a period of seven days from today.

9. Accordingly, the instant writ petition stands disposed with the following directions:-

(i) The corporation shall pass consequential order in terms of the statement made and recorded hereinabove within a period of two months from today.

(ii) Once this order is passed, the petitioner may make a representation to the concerned authority for correct seniority in the regular cadre. The concerned authority shall consider

the same and pass a speaking order within two months from the date of receipt of the representation.

(iii) If there any grievance still surviving it would be open for the petitioner to agitate the same in accordance with the law."

10. All the directions passed here-in-above had to be complied with by the respondents-Corporation within a period of 1(one) month from the date of receipt of this order.

11. Accordingly, this instant writ petition stands disposed of.

JUDGE



Suhanjit

सत्यमेव जयते