

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.1266/2019

1. Sri Kanai Saha, S/o Lt. Chinta Haran Saha, resident of Town Shibnagar, P.O – Agartala College, P.S – East Agartala, District – West Tripura.
2. Nidhu Ranjan Chakraborty, S/o Lt. Ananda Charan Chakraborty, resident of Ward No.3, P.O – Sabroom, South Tripura.
3. Sri Nibash Deb, S/o Lt. Nishi Kanta Deb, resident of Pakhir Bazar, P.O – Ichabpur, P.S – Kailashhar, Kailashahar, Unakoti Tripura.
4. Md. Mafazzul Hussain, S/o – Lt. Md. Mukchand Ali, resident of Vill & P.O – Ranguita, P.S – Irani, Kailashahar, Unakoti Tripura.
5. Krishna Mohan Dey, S/o – Lt. Dharendra Kr. Dey, resident of Village- Boulabasa, P.O & P.S. – Kailashahar, Kailashahar, Unakoti Tripura.

..... Petitioner(s).

Vs.

1. The State of Tripura,
represented by the Secretary, Department of PWD(R & B),
Govt. of Tripura, New Secretariat Complex, Kunjaban, Agartala,
West Tripura, Pin – 799 010.
2. The Chief Engineer, PWD(R & B), Govt. of Tripura, Agartala,
West Tripura.
3. The Secretary, Department of Finance, Govt. of Tripura Director
General of Police, Government of Tripura, New Secretariat Complex,
Kunjaban, Agartala, West Tripura, Pin – 799 010.

..... Respondent(s).

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HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

For Petitioner(s) : Mr. P Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate.

For Respondent(s) : Mr. D Bhattacharya, Govt. Adv.

Date of hearing & Judgment : 26th February, 2021.

Whether fit for reporting : No.

J U D G M E N T (O R A L)

Petitioners have challenged office order dated 14th December, 2018 by which the Government initiated recovery of excess payments made to the petitioners which was, on account of wrong pay fixations made in their cases.

[2] Brief facts are that all the petitioners were engaged as Khalasis on different dates, sometime in the year 1987 or thereabouts. At the time of entry in Government service they were governed by Tripura Civil Services (Revised Pay) Rules, 1982 ("*ROP, 1982*" for short) and that the post of Khalasi which they held carries the pay scale of Rs.370-650/-. Tripura Civil Services (Revised Pay) Rules, 1982 ("*ROP, 1988*" for short) were introduced w.e.f 1st January, 1996. The post of Khalasi was re-designated as Senior Helper which carried a pre-revised scale of Rs.400-775/- and upon revision, their pay would be fitted in the grade scale of

No.12 with revised scale of Rs.850-2,130/-. The pay of the petitioners was accordingly fixed, relying on Government of Tripura clarification, by first placing them in the pre-revised scale of Rs.400-775/- meant for the Senior Helpers and thereafter, granting them corresponding pay scale in the revised rules.

[3] As per the Government of Tripura policy from time to time, before granting the benefits of Carrier Advancement or Carrier Progression Schemes they were given 3rd ACP on 1st January, 2014 or thereabouts and placed in the scale of pay of Rs.4,530-13,000/- with a Grade Pay of Rs.1,700/-. This benefit of 3rd ACP was withdrawn by the Government by impugned communication dated 14th December, 2018. Since the petitioners had retired since then, recoveries from their pensions of the excess pay were made.

[4] According to the department, the petitioners had already availed 3 scale upgradations in their service carrier and, therefore, the 3rd scale upgradation granted in the year 2014 was not justified and therefore, correctly withdrawn. The department points out that upon re-designation of the post of Khalasi as Senior Helper, all the petitioners and similarly situated employees were placed in the higher scale of pay under pre-revised scale and thereafter granted corresponding revised scale under

ROP, 1988. This, according to the department, is a scale upgradation and therefore, the petitioners were not entitled to the 3rd ACP benefit.

[5] Having heard learned counsel for the parties and having perused documents on record, I do not find any error in the view of the Government. As noted, at the time of introduction of ROP 1988, the post of Khalasi carried a pre-revised scale of Rs.370-650/-. This scale would have been revised as provided under the ROP, 1988 and without the aid of upgradation, the incumbents would be placed in the revised scale of Rs.800-1,520/-. However, the department desired to upgrade the entire cadre and therefore, re-designated the post as Senior Helper which carried the pre-revised scale of Rs.400-775/- corresponding revised scale of this pre-revised scale was Rs.850-2,130/-. This in clear terms was a scale upgradation. We may also refer to a clarification of Finance Department dated 30th November, 1988 in which it has been provided that on account of re-designation of the post of Khalasi as Senior Helpers, the pay of improvements will be first notionally fixed in the modified scale of Rs.400-775/- and then to the revised scale of Rs.850-2,130/-.

[6] Under ROP 1999, Assured Career Progression Scheme has been framed by the Rule 10 which essentially provides that a State Government employee will have scale advancement by way of promotion, failing

which by time bound movement in a higher scale after entry into service in whole service life after 10 years, 7 years and 7 years of continuous and satisfactory service unless he gets promoted to a post of higher scale before such period. The proviso (i) of the said Rule provides that if scale advancement takes place by way of promotion prior to the period mentioned above, no further advancement would be admissible at the end of the appropriate stage.

[7] The movement of the petitioners from a pre-revised scale of Rs.370-650/- to 400-775/- at the time of implementation of ROP 1988 upon re-designation of their post from Khalasi to Sr. Helper, was thus clearly an availment of scale advancement. If, including such upward movement the petitioners had already availed 3 scale advancements by the time ROP 1999 were promulgated, they did not have a right for further ACP benefit under ROP 1999.

[8] In the result, petition is dismissed. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI, CJ)