

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 1004 OF 2022

Sri Subrata Debnath,
S/o Lt. Jatindra Mohan Debnath, R/o Aralia, Pal Para,
P.O. Aralia, Agartala.

... Petitioner.

Vrs.

- 1. Tripura University (A Central University),**
Established by Tripura University Act, 2006, being represented by the
Registrar, Tripura University, Suryamaninagar, District-West Tripura,
Pin-799022.
- 2. The Registrar,**
Tripura University, Suryamaninagar, District-West Tripura, Pin-799022.
- 3. The vice Chancellor,**
Tripura University, Suryamaninagar, District-West Tripura,
Pin-799022.

... Respondents.

Present:

For the petitioner	:	Mr. P. Roy Barman, Sr. Advocate. Mr. K. Nath & Ms. S. Debbarmarman, Advocates.
For the respondent	:	Mr. Tanmay Debbarma, Advocate.
Date of hearing & date of delivery of judgment & order	:	28.06.2023
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE ARINDAM LODH
Judgment & Order(Oral)

By means of filing the instant writ petition, the petitioner, Sri Subrata Debnath has claimed regularization/permanent absorption as a Group 'D' employee under the respondents.

2. Briefly stated, the petitioner was engaged as Casual Worker purely on temporary basis, as Daily Rated Worker [for short, DRW] on no work no pay basis under the respondents vide order dated 30.06.1994. On completion of continuous three years' service he was "engaged on monthly fixed amount as per existing norms and prescribed rate of the State Govt. as admissible from time to time." Thereafter, vide notification dated 07.12.2017, the petitioner was conferred with the temporary status under the Scheme-"Casual Labourers (Grant of Temporary Status & Regularization) Scheme of Govt. of India,1993" w.e.f. 12.09.2008 [here-in-after referred to as the Scheme-1993]. Since then the petitioner has been discharging his duties and responsibilities as Casual Labourer with temporary status under the respondents. The claim of the petitioner is that he is entitled for regularization under the Scheme-1993.

3. Mr. P. Roy Barman, learned senior counsel, assisted by Mr. K. Nath, learned counsel appearing for the petitioner has relied upon Clause 4 and Clause 8 of the Scheme-1993 to establish the claim of the petitioner for regularization.

On the other hand, Mr. Tanmay Debbarma, learned counsel appearing for the respondents has submitted that the petitioner is not entitled for regularization under the Scheme-1993. Mr. Debbarma, learned counsel has placed reliance upon sub-clause (iv) of Clause 4 of the Scheme-1993.

4. I have given my thoughtful consideration to the submissions advanced by the learned counsels appearing for the parties and the relevant provisions under the Scheme-1993 relied upon by them.

5. Clause 4 of the Scheme-1993 may be reproduced here-under for convenience, in verbatim:

“4. Temporary Status

- (i) *Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).*
- (ii) *Such conferment of temporary status would be without reference to the creation/availability of regular Group ‘D’ posts.*
- (iii) *Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.*
- (iv) *Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group ‘D’ posts.”*

6. Clause 8 of the Scheme-1993 may also be quoted here-in-below as relied upon by learned Sr. counsel appearing for the petitioner:

“8. Procedure for filling up of Group ‘D’ posts

- (i) *Two out of every three vacancies in Group ‘D’ cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group ‘D’ staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies.....”*

7. I have carefully perused the above provisions as referred to under the Scheme-1993. In my opinion, sub-clause (iv) of Clause 4 and Clause 8 of the said Scheme must be read in conjunction with each other. Sub-clause (iv) of Clause 4 of the Scheme-1993 clearly provides that absorption of Casual Labourer with temporary status is not automatic. The permanent absorption must be made through regular selection process. Clause 8 clearly stipulates that the posts in Group 'D' cadres in respective offices must be filled up as per extant recruitment rules and in accordance with the instructions issued by the Department of Personnel and Training from amongst casual workers with temporary status. Added to it, Clause 8 virtually postulates the ratio of distribution of posts to fill up the vacancies in Group 'D' cadres from amongst the casual workers with temporary status. A minute perusal of Clause 8 of the Scheme-1993 makes it clear that this clause is not to override the pre-conditions as stipulated under sub-clause (iv) of Clause 4 of the Scheme-1993 for filling up Group 'D' posts on regular basis.

8. Mr. Roy Barman, learned senior counsel has emphatically submitted that the object of the Scheme-1993 is to regularize the casual workers with temporary status after lapse of considerable period of service rendered by such employee. I am unable to accept the submission of Mr. Roy Barman, learned counsel for the petitioner. According to this court, the object of the Scheme-1993, for the purpose of regularization, regular

selection process must be held to bring transparency in public employment. The legislature by way of framing the Scheme-1993 has intended to stop the back-door entry into any establishment run and governed by the Central Government.

9. In the light of the above discussions, I do not find any merit in the claim of the petitioner for regularization of his service as Group 'D' employee under the respondents.

Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

JUDGE

SANJAY GHOSH Digitally signed by SANJAY GHOSH
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