

**HIGH COURT OF TRIPURA  
AGARTALA**

**WA No.61 of 2023**

State of Tripura & others

.....Appellant(s);

Versus

Smt. Lily Gabil

.....Respondent(s).

**along with**

**WA No.62 of 2023**

State of Tripura & others

.....Appellant(s);

Versus

Smt. Ayesha Begum

.....Respondent(s).

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For Appellant(s) : Mr. D. Sharma, Addl. G.A.

For Respondent(s) : None.

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH  
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

**Order**

**29/04/2024**

Heard Mr. D. Sharma, learned Additional Government Advocate  
for the appellants-State.

2. Both the appeals are tagged together as they raise common issues. In both the appeals, the learned Writ Court has directed the respondents to consider the representation of the writ petitioner in accordance with law in the light of the judgment passed by this Court in WP(C) No.853/2017 and other analogous cases dated 21.08.2017 within a period of two months from the date of receipt of the order. The facts of both the writ petitioners are common.

3. Writ petitioner Lily Gabil was appointed as a School Mother on 23.07.1990 whereas writ petitioner Ayesha Begum was appointed on 19.07.1990 on the same post. The services of both these petitioners were regularized on 03.11.2007. The first petitioner has superannuated on

28.02.2021 and petitioner Ayesha Begum has superannuated on 29.02.2020. They approached the Writ Court with a prayer to count their services on consolidated fixed pay basis from the date of their engagement as School Mother till the date of their regularization for the purposes of pensionary benefits. The learned Writ Court took into consideration the stand of the parties and the decision rendered earlier in WP(C) No.853/2017 and other analogous matters dated 21.08.2017 on the same issue concerning the School Mothers and directed the respondents to decide the representation of these writ petitioners in the light of that judgment and order.

4. Mr. D. Sharma, learned Additional Government Advocate for the appellants-State, has assailed the impugned judgment and order *inter alia* on the ground that the cases of the present petitioners are not similar to those of the writ petitioners in WP(C) No.853/2017. He submits that the learned Single Judge failed to appreciate that services of the School Mother under the State Government and Anganwadi workers engaged under a scheme of the Central Government is totally different in terms of remuneration and conditions for providing pension. He further submits that the learned Single Judge also failed to appreciate that half of the period of service of employees who worked as Contingent employees (except Part Time Contingent employees), piece rated Typist etc. should be counted for the purpose of pensionary benefits. Subsequently, post of School Mother was incorporated in the said pension scheme after pronouncement of the judgment and order in the case of ***Smt. Mamata Rani Roy (Saha) v. The State of Tripura & others*** passed in ***WP(C) No.77/2015*** for counting their services rendered prior to their regularization for

the purposes of calculating the qualifying service for pension and other retiral benefits. As such, the impugned orders may be set aside.

5. We have considered the submission of learned counsel for the appellants, taken note from the relevant pleadings on record, the decisions rendered by the learned Single Bench of this Court in the case of **Smt. Chhabi Rani Roy v. The State of Tripura & others** passed in WP(C) No.853/2017 and other analogous cases dated 21.08.2017, the decision rendered by learned Division Bench of this Court in WP(C) No.77/2015 dated 08-10-2015 in the case of **Mamata Rani Roy (Saha)** (supra) [Annexure-9] and also the impugned directions.

The case of **Mamata Rani Roy (Saha)** is also related to a School Mother who was initially appointed on fixed term basis vide order dated 19.07.1990 and later her services were regularized on 03.11.2007. She superannuated on 30.06.2013 and sought counting of her past service for the purposes of reckoning her qualifying service for pensionary benefits. In those circumstances, the learned Division Bench of this Court held as under:

“12. In view of the above discussion, the writ petition is allowed with costs assessed at Rs.5,000/- (rupees five thousand) and it is directed that the service rendered by the petitioner from the date of her joining as School Mother on fixed pay basis pursuant to the letter of appointment dated 19-07-1990 till her regularization shall be added to her regular service from 01-10-2007 till her superannuation on 03-11-2007 for calculating her pension and other retiral benefits. The State shall ensure that the pension is accordingly fixed and all retiral benefits be released in favour of the petitioner latest by 31<sup>st</sup> January, 2016 along with interest @ 9% per annum from the date of retirement of the petitioner, i.e. 30-06-2013 till payment/deposit of this amount.”

That judgment and order has been followed and as per the stand of the appellants, in the writ appeals also the post of School Mother has, thereafter, been incorporated in the pension scheme.

6. The case of *Smt. Chhabi Rani Roy* (supra) and other analogous cases were decided by the learned Single Bench of this Court taking note of the decision rendered by the learned Division Bench of this Court in the case of *Smt. Mamata Rani Roy (Saha)* in *WP(C) No.77/2015*. The opinion of the learned Division Bench from para 6 till para 11 has been quoted in the said decision as well. The learned Single Bench, in those circumstances, directed the respondents to count the services rendered by the petitioners from the date of their joining as School Mother on fixed pay basis till their regularization for the purposes of pensionary benefits. Those decisions have admittedly been complied with. On facts, the cases of the present petitioners/respondents herein do not carry any distinction. These petitioners would also have served more than ten years for reckoning the qualifying service for pension; but in terms of the ratio rendered in the case of *Smt. Mamata Rani Roy (Saha)* (supra), they would also have the benefit of counting their past services for reckoning the total period of qualifying service for pensionary benefits.

7. Since this Court has rendered a decision on the same issue earlier which stands complied with and there are no distinguishing features in the cases of the present petitioners/respondents herein, we do not find any reason to interfere in the impugned judgments. Accordingly, the instant appeals are dismissed. Pending interlocutory applications shall stand closed.

**(S.D. PURKAYASTHA), J**

**(APARESH KUMAR SINGH), CJ**

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