

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) 211 of 2024**

1. Smt. Sukriti debnath,  
W/o Lt. Nalini Mohan Debnath, aged about 54 years.
2. Sri Aparup Debnath,  
S/o Lt. Nalini Mohan Debnath, aged about 33 years.
3. Sri Arijit Debnath, S/o Nalini Mohan Debnath, aged about 31 years.

All are resident of Vill: Tilthai, PO:- Dharmanagar, PS:- Panisagar, District:- North Tripura, PIN:- 799260.

**----Petitioner(s)**

**Versus**

1. The State of Tripura  
represented by its Principal Secretary, Department of Social Welfare and Social Education, PO- Kunjaban, PS:- New Capital Complex, District:- West Tripura, Pin:- 799006.
2. The Director, Social Welfare and Social Education Department, Govt. of Tripura, Abhoynagar, PO:- Kunjaban, PS:- New Capital Complex, District:- West Tripura, PIN:- 799005.
3. The Accountant General (A&E), Tripura, Circuit House, PO:- Kunjaban, PS- New Capital Complex, District:- West Tripura, PIN:- 799006.
4. The Additional Secretary, General Administration (Confidential and Cabinet) Department, Govt. Of Tripura, PO: Secretariat, PS:- New Capital Complex, District:- West Tripura, PIN:- 799010.

**---Respondent(s)**

For Petitioner(s)	:	Mr. Arijit Bhowmik, Advocate.
For Respondent(s)	:	Mr.M. Debbarma, Addl. GA
		Mr. Nepal Majumder, Advocate.
Date of hearing and date of judgment and order	:	31.01.2025.
Whether fit for reporting	:	Yes

**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**Judgment & Order (Oral)**

This is a petition under Article 226 of the Constitution of India.

[2]           It is the case of the petitioners that the petitioners approach this Court by way of filing this instant Petition under Article 226 of the Constitution of India seeking a

writ of mandamus directing the respondents to consider the service of Lt. Nalini Mohan Debnath as Supervisor, ICDS as regular service w.e.f. 01.04.1991 and thereafter to release all service benefits admissible upon death in favour of the petitioners. The petitioners further seek a writ of mandamus upon the respondents to release the pensionary benefits to the petitioners upon demise of Lt. Nalini Mohan Debnath considering the service of Lt. Nalini Mohan Debnath as Supervisor, ICDS as regular service w.e.f. 01.04.1991. The petitioners further seek release of Death cum Retirement Gratuity as sanctioned by the Memorandum dated 27.09.2012 and leave encashment sanctioned vide 27.09.2012 along with interest @ 18% per annum. The dispute projected in this Writ Petition is that Lt. Nalini Mohan Debnath was appointed on Ad-hoc basis as Supervisor, ICDS and till his demise on 12.02.2012 Lt. Nalini Mohan Debnath was serving as Supervisor, ICDS on Ad-hoc basis. Subsequently, the Council of Ministers in the year 2017 took a decision to regularise the service of other similarly situated Supervisors (ICDS), Supervisors (RFLP), etc. w.e.f. the date of their initial appointment along with consequential benefits of seniority and pension. Pursuant to the decision of the Council of Ministers dated 17th May, 2017, the Respondent Department issued Memorandum dated 02.06.2017 whereby various Supervisors (ICDS), Supervisors (RFLP) were regularized from the date of their initial appointment along with consequential benefits of Seniority and Pension. Those Supervisors (ICDS), Supervisors (RFLP), etc. were appointed along with Lt. Nalini Mohan Debnath on Ad-hoc basis and as such were similarly situated along with Lt. Nalini Mohan Debnath. But as Lt. Nalini Mohan Debnath expired on 12.02.2012, Lt. Nalini Mohan Debnath was not regularized from the date of initial appointment along with consequential seniority and pension. Hence, this Writ Petition.

[3] Hence, by this means of this writ petition, the petitioner herein has approached this court seeking relief *inter-alia*.

- i. *Issue notice upon the Respondents.*
- ii. *Call for the records.*
- iii. *Issue rule calling upon the Respondents to Show Cause as to why the service of Lt. Nalini Mohan Debnath as Supervisor (ICDS) on Ad-hoc basis shall not been treated as regular w.e.f. the date of his initial appointment i.e. 01.04.1991.*

AND

*Issue Rule calling upon the Respondents to Show Cause as to why the Petitioners shall not be granted all consequential financial benefits including family pension upon treating the service of Lt. Nalini Mohan Debnath as regular service w.e.f. 01.04.1991.*

AND

*Issue Rule calling upon the Respondents to Show Cause as to why the amount of Rs. 03,04,080/- sanctioned as Death cum Retirement Gratuity and amount of Rs. 01,67,962/- sanctioned as Leave Encashment vide Annexure- 5 & 6 shall not be released along interest @ 18% per annum w.e.f. 27.09.2012 till date of actual payment.*

AND

*Issue Rule calling upon the Respondents to Show Cause as to why the order dated 13.02.2024 (signed on 12.02.2024) issued by the Respondent No.2 shall not be set aside and quashed. AND Issue Rule calling upon the Respondents to show cause as to why the Memorandum for the Council of Ministers dated 11th May, 2017, Memorandum dated 16th May, 2017, the Memorandum bearing no. F.3(51)- DSWE/ESTT/2014(L)/2281(22) dated 02.06.2017 and Memorandum no. F.3(51) DSWE/ESTT/2014(L)/2282(10) dated 02.06.2017 shall not be set aside and quashed to the extent that the service of Lt. Nalini Mohan Debnath has not been regularised w.e.f 01.04.1991 i.e. the date of initial appointment with consequential benefit of pension so as to enable the Petitioners to get family pension.*

AND

*Issue Rule calling upon the Respondents to show cause as to why family pension shall not be sanctioned in favour of the Petitioners upon demise of Lt. Nalini Mohan Debnath with all consequential benefits including arrears of family pension.*

- iv. *And after hearing the parties be pleased to make the rule absolute.*

AND/OR

*Pass any other order/orders as deemed fit and proper.*

[4] It is represented by the counsel for the petitioners that vide Memorandum dated 02.06.2017 a retrospective decision had been taken by the respondents to regularize the service of all Supervisors (ICDS), Supervisors (RFLP), etc. from the date of their initial appointment to grant them the benefit of seniority, pension, etc. Thus when a retrospective decision is taken to regularize the service of Ad-hoc Supervisors (ICDS), Supervisors (RFLP), etc. from the date of initial appointment, Lt. Nalini Mohan Debnath who was also appointed on Ad-hoc basis along with the aforesaid persons was also entitled to be regularized in service from the date of his initial appointment at least with

the consequential benefit of pension. But the same was not done and as a result of such deprivation, the petitioners are now deprived of the family pension which otherwise which have been admissible to the petitioners had the service of Lt. Nalini Mohan Debnath been regularized from the date of his initial appointment along with consequential benefit of pension.

[5] It is further represented by the counsel for the petitioners that the decision of the respondents to regularize the service of Ad-hoc Supervisors (ICDS), Supervisors (RFLP), etc. from the date of initial appointment is in consonance with the decision of the Hon'ble Apex Court in Direct Recruit case reported in (1990) 2SCC 715 whereby the Hon'ble Apex Court held that where Ad-hoc Service is continuous, uninterrupted and is followed by regular appointment, such regularization will be affected from the date of initial appointment along with seniority. In the instant case Lt. Nalini Mohan Debnath expired on 12.02.2012 and as such the petitioners are not claiming the consequential benefit of seniority but if the service of Lt. Nalini Mohan Debnath is treated to be regular w.e.f. the initial date of appointment with consequential benefit of pension in that event the petitioners would be entitled to Family pension as envisaged under Rule 54 of CCS (Pension) Rules, 1972. Further, the petitioner pray that treating the service of Lt. Nalini Mohan Debnath at par with other similarly situated Ad-hoc Supervisors (ICDS) and Supervisor (RFLP), the respondents are under an obligation to treat the service of Lt. Nalini Mohan Debnath as regular service from the date of initial appointment and further to grant all service benefits, pensionary benefits, etc. admissible upon death of Lt. Nalini Mohan Debnath to the petitioners.

[6] To prove his case, learned counsel for the petitioners has relied upon the following judgment of the apex court in *Shri Krishan Chander vs MCD* reported in **2014 SCC Online Del 4722**. He also placed his reliance in a judgment of the Punjab and

Haryana High Court in *Balwinder Kaur vs. State of Punjab and Others* passed in *CWP 1169 of 2011* dated 16.12.2014.

[7] On the other hand, it is contended by Mr. M. Debbarma, learned Addl. Government Advocate that by referring the decision of the Hon'ble Apex Court in (1990) 2SCC 715, it may be stated that Late Nalini Mohan Debnath expired on 12.02.2012 while in service on Ad-hoc status prior to initiate the process meant for regularization initiated by the Department. He was appointed temporarily but not appointed regularly. An Ad-hoc appointment does not automatically give any vested right to the appointee to claim continuity in service till it is regularized. It is only transient in nature pending the allotment of employees selected according to the prescribed rules and regulations. Therefore, he was not entitled for the pensionary benefits admissible to regular employees.

[8] It is further contended by the Addl. Government Advocate that the matter of regularization of ad-hoc employees under the Department was initiated on sympathetic ground as per verdict of the Hon'ble Court vide order dated 26.03.2014. Shri Ram Krishna Bhattacharjee has retired from his service on 31.12.2016. Similarly, Shri Nripendra Nath also retired from his service on 30.11.2016 and expired on 06.12.2016. But both of them were in service at the time of initiating the matter of regularization of Ad-hoc employees. So, their ad-hoc service has been regularized by the memo dated 02.06.2017 and given benefits to them.

[9] Moreover, it is also submitted by the learned Addl. Government Advocate that the son of the deceased employee was given an employment under compassionate ground therefore the relief as sought by the petitioners here cannot be extended to them. He further prayed to dismiss the case of the petitioners.

[10] Mr. Nepal Majumder, learned counsel appearing for the respondent no.3 contended before this court that respondent no.3 is a formal party and he also adopts the submission as advanced by Mr. M. Debbarma, learned Addl. GA.

[11] Heard learned counsel for the parties.

[12] It is apparent from the record that the husband of the petitioner, Lt. Nalini Mohan Debnath, (deceased), has rendered his service for the respondents for 20 years and 10 months and as per the service regulation, if an employee serves for 10 years, he/she is entitled for regularization and other consequential benefit. It appears to this court that along with the husband of the petitioner, the other co-employees who were also serving and their services have been regularized by the government by a cabinet decision dated 02.06.2017. In the meanwhile, the husband of the petitioner expired on 12.02.2012. Thereafter, the benefits which have been extended to the other employees by the Government with retrospective effect of their services from the date of their joining, the petitioner made a claim for the same benefit asking the respondents to extend to him. Since the deceased employee died even before such cabinet decision came into force, the stand of the government that since the petitioner is not surviving, the similar benefits cannot be extended to him. Additionally because of the fact that an employment has already been provided to the son of the deceased employee, no further reliefs can be extended to the petitioners, such statement of the respondents has no weightage. This court opines that there is no provision or any restriction under law in service jurisprudence denying the legitimate right of the husband of the petitioner herein when the deceased employee has already obtained the eligibility for regularization by completing 10 years as stipulated under law and when the same benefit has already been extended to his other colleagues, a discrimination cannot be drawn depriving the benefits to the petitioner on the pretext compassionate appointed has also been extended.

[13] It is pertinent to extract herein below the judgments of the apex court covering the present case in hand also extended the similar benefit on same principle. In **The State of Nagaland & Ors vrs. Nishevi Achumi** passed in **Civil Appeal No.4223 of 2022** dated 11.07.2022 where the apex court has observed as under:

*4.1 It is required to be noted that the deceased employee died in the year 2005. During his lifetime he never claimed any regularization. That the respondent herein original writ petitioner wife of the deceased employee claimed the regularization after a period of twelve years from the death of the deceased employee. At the time of the death of the deceased employee he was not entitled to regularization as he was much below in the list of the worked charge employees whose services were to be regularized. Under the Regularization Policy the services of the work-charge employees were required to be regularized as per the seniority and as and when the vacancy arises. The services of the other work-charge employees even who were senior to the deceased employees were regularized in the year 2009 i.e. after the death of the deceased employee. Despite the above, the High Court has directed the State to regularize the services of the deceased employee one day prior to his death, which otherwise his services were not required to be regularized as his turn had not come and he was much below in the seniority list.*

[14] In another judgment of the apex court in **Madanlal Sharma (Dead) Through LRS. Vs. The State of Madhya Pradesh & Ors** passed in **Civil Appeal No.14753/ of 2024** arising out of SLP(C) 18981 of 2021 dated 19.12.2024 where the apex court has observed as under:

*15. It is in these circumstances that we feel constrained to hold that the learned Single Judge was perfectly right in allowing the writ petition and holding that Madanlal was entitled to pensionary benefits from 31st January (sic, March), 2012.*

*16. We, therefore, set aside the impugned judgment and order of the Hon'ble Division Bench of the High Court and restore the judgment and order of the learned Single Judge. 17. Now that Madanlal has passed away, the retiral benefits to which he was entitled, treating him to be a permanent employee, as well as benefit on account of family pension shall be released in favour of his heirs/legal representatives together with 6% interest from the date of his retirement within three months from date, upon compliance with all formalities and proper identification of his heirs/legal representatives.*

[15] In view of the aforementioned judgments of the apex court (*cited supra*) and the judgment as relied upon by the counsel for the petitioner, this court is of the considered opinion that the case of the petitioner is fit to be considered and any denial amounts to arbitrariness. In view of the above discussion, this court concludes that the petitioners are entitled for the relief claimed. Hence the writ petition is allowed. The respondents are

directed to extend all the benefits as sought for in this writ petition by the petitioners in accordance with law as expeditiously as possible.

[16] With the above observation and direction, this present writ petition stands allowed and thus disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

**JUDGE**

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