

(2024) 07 TP CK 0030

Tripura High Court- Agartala

Case No: Writ Petition (C) No. 491 Of 2024

Bikash Majumder & Ors.

APPELLANT

Vs

State Of Tripura, Represented By
Its Principal Secretary, School
Education Department,
Government Of Tripura, P.O
-Secretariat, P.S New Capital
Complex, District -West Tripura,
Pin - 799010. & Ors.

RESPONDENT

Date of Decision: July 25, 2024

Hon'ble Judges: Aparesh Kumar Singh, CJ

Bench: Single Bench

Advocate: Arijit Bhaumik, S. Dey, Kohinoor N. Bhattacharya, K. Reang

Final Decision: Disposed Of

Judgement

Aparesh Kumar Singh, CJ

[1] Petitioners have approached this Court seeking the benefit of past service for all purposes including pension, gratuity, leave at credit, pay protection, counting of period for the purpose of determining five years' fixed pay period and for extension of financial benefits in their favour upon grant of such benefit.

[2] The facts of the case, as pleaded, are as under.

Petitioners have, after taking 'No Objection Certificate' from the competent authority, participated in the recruitment exercise for the post of Graduate Teacher (Elementary Level) while working as Under Graduate Teacher (Elementary Level) under the Education Department, Government of Tripura. Thereafter, on being successful, they submitted technical resignation and joined the new post of Graduate Teacher (Elementary Level). They claimed the benefit of past service relying upon certain circular of the Ministry of Personnel, Public Grievances and Pensions, Government of India dated 17.08.2016 regarding the effect of technical resignation and also decision rendered earlier in case of Sri Dilip Shil and others versus State of Tripura and others in WP(C) No.722 of 2022. They submitted that their representation (Annexure-40) dated 28.06.2024 is pending before the competent authority i.e. Director of Elementary Education, Directorate of Elementary Education, School Education Department, Government of Tripura, respondent No.2. Therefore, they had to approach this Court for relief.

[3] Mr. A. Bhaumik, learned counsel for the petitioners, submits that the respondents may be directed to consider the representation of the petitioners in accordance with

law and grant the aforesaid benefits. He also relies upon the case of Sri Dilip Shil & others versus The State of Tripura & others in WP(C) No.722 of 2022 wherein pursuant to the order dated 17.03.2023 passed by this Court, those writ petitioners have been granted the benefit of past service. As such, the respondents may be directed to take a decision in accordance with law in respect of the present petitioners also.

[4] Learned Government Advocate for the respondents-State, submits that the instant petition has been taken up for the first time. Therefore, instructions are awaited. However, since the consideration on this issue at the first instance lies before the competent authority under the department, in case the representation of the petitioners has not been considered on account of genuine reasons, the respondent-department would consider it in accordance with law in a suitable time as may be directed by this Court.

[5] Having regard to the nature of relief sought for by the petitioners, since the representation of the petitioners is pending before the concerned respondent authority, this Court without expressing any opinion on the merits of the case, deems it proper to direct the competent authority/respondent No.2 to take a decision upon their representation, in accordance with law, within a reasonable period preferably within 16(sixteen) weeks from the date of receipt of copy of this order.

[6] The instant petition is disposed of with the aforesaid observations.

Pending application(s), if any, shall also stand disposed of.