

(2014) 07 TP CK 0032
In the Tripura High Court
Case No : WP(C) 245 of 2007

Anjan Deb Roy VsThe State of Tripura

Date of Decision : 24-07-2014

Acts Referred:

Citation : (2015) 1 GLD 68 : (2014) 3 GLT 669

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : D.K. Biswas, A.K. Deb and G.K. Nama, Advocate for the Appellant;
B.C. Das, Advocate General and S. Chakraborty, Addl. G.A, Advocate for the
Respondent

Final Decision : Disposed Off

Judgement

Deepak Gupta, C.J.—This is a second round of litigation filed by the petitioners.

2. The petitioners Anjan Deb Roy and Gouranga Kanti Roy Choudhury were appointed as Junior Grade Stenographers on 22-06-1988 and 16-09-1988 respectively. The Government of Tripura issued notification on 16-09-1988 revising the pay and allowances of all Government employees of the State of Tripura w.e.f. 01-01-1986 as per Tripura State Civil Services (Revised Pay) Rules, 1988. Another notification was issued on 13-12-1988 providing automatic movement from the lower grade to higher grade after completion of 4 years of service in respect of all cadre services except the Tripura Stenographers Service.

3. The members of the Tripura Stenographers Service raised this issue and the State constituted the Pay Anomaly Sub-Committee and the All Tripura Stenographers Association submitted its representation before the committee. However, the committee gave no finding and on 05-11-1996 the 4th Tripura Pay Commission was constituted and even the 4th Pay Commission in its report dated 29-06-1998 did not deal with the issues raised by the stenographers.

4. Thereafter, the petitioners filed writ petition being Civil Rule No. 301 of 1999 before the Agartala Bench of the Gauhati High Court and the grievance made by them was that the anomaly in not granting automatic upgradation of scale after

four years of service had not been considered either by the Pay Anomaly Committee or the 4th Pay Commission. It would be pertinent to mention that the 3rd Pay Commission in its report had recommended that all cadre service officers should be moved from the lower to the next higher grade automatically after 7 years of service. Where one grade had two scales of pay, then the movement would be from the lower scale to the higher. The Government of Tripura accepted the pay suggested by the 3rd Pay Commission and also by the 4th Pay Commission. However, whereas, in respect of other cadre services, such as Tripura Civil Services, Tripura Police Services, Tripura Engineering Services etc., the Government of Tripura permitted movement to the higher grade/scale on completion of 4 years instead of 7 years, the Stenographer Service was left out of the benefit of the recommendation. Therefore, the petitioners alleged that they had been discriminated against in this regard.

5. Reliance by the petitioners was placed on the judgment of the Apex Court in *Purshottam Lal and Others Vs. Union of India (UOI) and Another*, wherein the Apex Court had held that if any category of Government servant was excluded from the benefit that was recommended by the Pay Commission, material should be placed before the Court to support why such category of Government servants was excluded from such benefit. The State took up the plea that the benefit of automatic movement into the higher grade after 4 years of service was only allowed in respect of those working in the "higher grade" of Rs. 800-1860/- which was later revised to Rs. 2100-3000-5000/-. The State submitted that the Stenographer Service had not been considered to be a "higher grade" service.

6. The learned Single Judge who decided the petition vide his judgment dated 02-12-2006 came to the conclusion that while the Government had accepted the recommendation of the Commission for other services, it had strangely kept the Stenographer Service out of the benefit of certain recommendation. The learned Single Judge further went on to hold that neither the Pay Anomaly Committee constituted by the Tripura Government nor the 4th Pay Commission addressed the grievances raised by the stenographers and, therefore, in light of the judgment in *Purshottam Lal's* case, the State should have placed material on record to show why the stenographers were not granted this benefit. The learned Single Judge further held that the contention of the petitioners that there is no differentiation of "higher grade" and "lower grade" has force. The learned Single Judge thereafter went on to hold as follows:-

Specific attention has also been drawn to those portion of the addendum dated 13-12-88 whereby the Tripura Government granted higher pay benefit and higher movement benefit to some other Government Services. In the said addendum, TES Grade-IV and Services under TES Grade-V with pay scale of Rs. 800-1860, Rs. 750-1750/- and Rs. 600-1440/- have also been given the benefit of higher pay as well as the benefit of automatic movement to higher scale on completion of 4 years of service. therefore, it appears that the other reasons cited by the respondents' counsel to deny the benefit to the petitioners on the ground that

such benefit is given only to persons whose pay is in the pay scale of Rs. 800-1860/- (revised pay scale of Rs. 2100-3000-5000), is not correct and such an explanation given in the counter affidavit is not acceptable. When an explanation is given in the counter affidavit that a particular benefit is given to only such class of service holders with the pay scale of Rs. 800-1860/- and is not given to persons drawing lower pay scale, the said assertion has to be found to be a correct assertion vis-a-vis the categories of people who have been given the benefit of pay scale. It is apparent from the addendum that service holders in the Tripura Engineering Service in Grade-IV and Grade-V who are drawing pay scale of Rs. 800-1860/-, Rs. 750-1750/- and Rs. 600-1440/- have also been given the higher pay benefit and the benefit of automatic movement in service and accordingly this court is of the view that the explanation tendered in the counter affidavit for keeping the Stenographers out of recommendation of the Third Pay Commission is not acceptable. Thus, it appears that there has been discrimination in considering the entitlement of the petitioners to the benefits recommended by the 3rd Pay Commission.

2. Consequently, while being conscious that this court is not an expert body to determine the actual entitlement of the petitioner or the pay scale that may be given to them or the movement benefit that should be given to the Stenographers' service, this court is of the view that the Government of Tripura while considering the recommendation of the Third Pay Commission, have not acted fairly and with proper reason, while keeping the Tripura Government Stenographers out of the purview of the benefit recommended by the Third Pay Commission. The unfair treatment of the Stenographers is all the more glaring since the Government has decided to accept the recommendation in respect of all the other Services recommended by the Third Pay Commission. No materials have also been made available in support of the impugned decision of the Government. The reasons cited in the counter affidavit for treating the Stenographers as a separate class vis-a-vis the other beneficiaries are also not inspiring confidence of this court.

3. In light of the discussions made above, this court is of the view that this case be disposed of by directing the Government to examine the grievances raised by the petitioners vis-a-vis the denial of the benefit of the recommendation of the Third Pay Commission. During such consideration, the Government should naturally examine as to whether, the Stenographers can be treated differently from the other cadre services who have been given the benefit of the Third Pay Commission's recommendation. If no reasonable basis for differentiation between the two classes are available, the Government would be expected to take an appropriate decision in the matter. Naturally, the Government would also be expected to support whatever decision they take, by giving reasons for taking such decision. This exercise be carried out by the Government of Tripura within a period of four months from the date of receipt of this judgment and order.

With the above direction, the writ petition is allowed to the extent indicated

above. No cost.

7. The learned Single Judge being conscious of the fact that he was not an expert in the field sent the matter back for consideration to the Government with a direction to examine the grievances raised by the petitioners and the main issue was whether the Government could treat the stenographers separately or differently from the other cadre services. The learned Single Judge clearly held that if there was no reasonable basis for differentiation, the Government would be expected to take an appropriate decision in the matter.

8. Thereafter, the Government has disposed of the representation in the following terms:-

(i) The relief sought by the petitioners have been carefully examined and considered after taking all aspects including recommendations of the Pay Commission into account. To examine and consider grievances of employees including employees of the Stenographer Service, raised on the pay scales of ROP Rules 1988, Government had constituted the 2 tier Anomaly Committee. The said Anomaly Committee had submitted its report on 30-09-1991 which was subsequently referred to the 4th Tripura Pay Commission. But the 4th Tripura Pay Commission in its wisdom did not find enough merit to consider the grievances raised by the members of the Stenographer Service. The revised pay scale of all grades of Tripura Stenographer Services were allowed as per recommendations of both 3rd and 4th Tripura Pay Commission.

(ii) Pay Commission is an expert Body for examination and consideration of pay structure and status etc of all employees working in different Departments including the Cadre Services and giving recommendation for revision of pay scales. The Pay Commission after examining all aspects has given its recommendation with its best wisdom. The recommendation of the Pay Commission in the instant case was found reasonable and accordingly Government had accepted the same.

(iii) Regarding Career Advancement Scheme, it is mentioned that 4 years qualifying service for movement to next higher scale was allowed only for a few cadre service with higher status and responsibility like Tripura Civil Service, Tripura Health Service, Tripura Forest Service, Tripura Dental Service, Tripura Police Service. In all these cadre services qualification of entry in the service and responsibility shouldered by the officers are not comparable with Stenographer Service. Hence, it is not justified to equate pay scale and movement prospect of Tripura Stenographer Service with said services.

(iv) The relief sought by the petitioners if accepted will have cascading effect on the other services in the Government both on financial terms and status related aspects of employees enjoying identical pay scales in different Departments including Cadre Services. It would not be proper to take an isolated view for a particular group of members of a service of a particular cadre to dis-balance the status-quo with employees in other services/Departments. Since, only Pay

Commission is the ideal Forum for looking into such grievances on a holistic manner, the issue may be referred to the next Pay Commission, when setup, for taking an holistic view covering all aspects and giving recommendation.

9. I shall now examine the reasons given by the Government. The first reason is that the Anomaly Committee and the 4th Tripura Pay Commission did not find merit in the grievances of the stenographers. I am surprised that the Government has taken such a stand after the learned Single Judge had clearly held that neither the Anomaly Committee nor the 4th Pay Commission had gone into the matter. This stand of the State stood already rejected.

10. As far as the second stand is concerned that helps the petitioners. The Pay Commission had recommended grant of higher scale after 7 years. The State thought it fit to grant the higher scale to persons to grade services after 4 years. The learned Single Judge had held that the State must explain what is the difference between the services.

11. As far as the third point is concerned, all that is stated is that the benefit of automatic advancement in service has been given to members of the Tripura Civil Service, Tripura Health Service, Tripura Forest Service, Tripura Dental Service, and Tripura Police Service and in all these cadres the qualification of entry in service and responsibility shouldered by the officers are not comparable with Stenographer Service. This was a stand taken earlier also, but merely saying that the service and responsibility is not the same is not sufficient. The petitioners are not asking for the same scale of pay. They are only praying that they should be treated similarly to other cadre services. The work may be different but the State has not been able to give any rational explanation to treat the Stenographer Cadre differently from the other cadres.

12. I find no merit in the contention of the State that those in the higher cadre should be granted this benefit. If there is a Career Advancement Scheme, that should be the same or similar for all levels of employees and the Career Advancement Scheme which is available to the members of the other cadre services should also be available to the petitioners.

13. The last point taken by the State is that if such relief is granted to the petitioners, it will have cascading effect. I am afraid that relief cannot be refused to any petitioner if he is entitled to such relief on such a totally specious ground.

14. At this stage, it may be mentioned that the judgment of the learned Single Judge has attained finality and has not been challenged by any party. Therefore, the findings of the learned Single Judge quoted hereinabove have become final. The State cannot be permitted to rake up the same issues which have been decided by the learned Single Judge in his judgment. In this view of the matter, this Court is clearly of the opinion that the petitioners are entitled to relief.

15. Here it would be pertinent to mention that as far as petitioner No. 2 Gouranga Kanti Roy Choudhury is concerned, he had expired and his legal heirs

had been brought on record and the monetary benefit shall be given to his legal heirs.

16. In view of the above discussion, the writ petition is allowed and the petitioners are held entitled to grant of being automatically placed in the higher grade on completion of 4 years of service in the lower grade as Junior Grade Stenographers. Their pay shall be re-fixed accordingly by giving them this benefit but the monetary benefit shall be restricted from 14-06-1996, i.e. 3 years prior to the filing of Civil Rule No. 301 of 1999. It is also made clear that such benefit shall only be available to the petitioners and not to other stenographers who have not approached this Court.

17. The writ petition is disposed of in the aforesaid terms.