

(2000) 02 GAU CK 0040
In the Gauhati High Court
Case No : Civil Rule No. 259 of 1996

Baharul Islam Majumder

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 25-02-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Tripura Agriculture Service Rules, 1989 — Rule 15

Citation : (2000) 2 GLT 109

Hon'ble Judges : P.C. Phukan, J

Bench : Single Bench

Advocate : C.S. Sinha, for the Appellant; R.B. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Phukan, J.—By this petition under Article 226 of the Constitution the Petitioner has prayed for a Writ for quashing the Tripura Government Finance Department Office Memorandum dated 7.12.92 (Annexure-D), agriculture Department Notification dated 30.11.93 (Annexure-N) and letter dated 10.5.95 (Annexure-M) from the Respondent No. 5 the Director of Horticulture & Soil Conservation, Tripura, and for consequential relief.

2. I heard Mr. C.S. Sinha, learned Counsel for the Petitioner and Mr. R.B. Sinha, learned Counsel for the Respondents. I have also considered the records of the case including the affidavit filed by the five intervenors, allowed to intervene by this Court's order dated 5.6.96 in Civil Misc. Case No. 369 of 1996 and the affidavit-in-opposition filed on behalf of the Respondents.

3. The relevant facts which are necessary for disposal of this Civil rule are summarised as under.

4. On the recommendation of Tripura Public Service Commission, the Petitioner was appointed as Agronomist, a Group-B gazetted post in the Agriculture Department of Tripura Government, w.e.f. 1.8.88 (Annexure-A) The Tripura

Agriculture Service Rules, 1989 came into force w.e.f. 11.1.1990 (Annexure-B). By a notification dated 3.1.1991 (Annexure-C) the Petitioner was appointed w.e.f. 17.9.91 to Grade-IV Group-B gazetted post as specified in the First Schedule to this Rule. This schedule specifies Agronomist as a post in "TAS-IV"(TAS stands for Tripura Agriculture Service). As per Rule 15 of this Rules, the scale of pay attached to Grade-IV post was Rs. 2100-4530/- p.m. This pay scale was later enhanced by a Finance Department Memorandum dated 7.12.1992 (Annexure-D). The relevant portion of this Memo is extracted below:

Dated, Agartala, the 7th Dec., 1992.

OFFICE MEMORANDUM

Sub : Grant of higher pay scales to some grades under Tripura Agriculture Services, Tripura Veterinary Services, Tripura Dairy Services, and also to Gr. V(a) under the Tripura-Engineering Service/Tripura Power Engineering Service.

The Governor of Tripura is pleased to order that some grades under the Tripura Agriculture Service, Tripura Veterinary Service, and Tripura Dairy Service, and also grade-V(a) under the Tripura Engineering Service/Tripura power Engineering Service shall be granted the enhanced pay scales, as indicated below against each of the service and grade, with effect from the 1st April, 1993.

5. Pursuant to the above Memorandum, the pay scale of the Petitioner was enhanced from Rs. 2100-4530/- p.m. to Rs. 2100-5000/- p.m. w.e.f. 1.4.1993. According to the Petitioner, his pay scale should have been enhanced to Rs. 3000-5000/- p.m. (and not to Rs. 2100-5000/- p.m.) w.e.f. 1.8.92 (and not w.e.f. 1.4.1993) in as much as he joined as Agronomist, a post in TAS-TV, on 1.8.88 and completed 4 years of service as such on 31.7.92 and the Tripura State Civil Services(Revised Pay) Rules, 1988, (ROP Rules for short) came into force w.e.f. 1.1.1986. The ROP Rules attaching the pay scale of Rs. 2100-4530/- p.m. to the post in Grade-IV TAS was effective from 1.1.1986 but the Finance Department Memorandum dated 7.12.1992 (Annexure-D) enhancing this pay scale to Rs. 2100-5000/- p.m. and to Rs. 3000-5000/- p.m. (after 4 years) was given effect from 1.4.1993 only. There is, therefore, no question of giving the Petitioner the enhanced pay scale w.e.f. 31.7.1992. He was rightly given the enhanced pay scale of Rs. 2100-5000/- p.m. w.e.f. 1.4.1993. Further, he was not entitled to the enhanced pay scale of Rs. 3000-5000/- p.m. right from 1.4.1993. He was entitled to this pay scale from 1.4.1997, i.e. after 4 years from 1.4.1993, the date of implementation of the enhanced pay scale. This is clear from the following notification dated 30.11.93 (Annexure-N):

Dated, Agartala, the 30th November, 1993.

Notification

In continuation of Finance Department office Memorandum No. F.4(60)-FIN/(PC) 92 dated 7.12.92, it is clarified that the senior level pay scale of Rs. 3000-5000/- will be admissible after completion of 4 years of service from the date of

implementation of the higher pay scale of Rs. 2100-5000/-

This is issued with the concurrence of the Finance Department vide their U.O. No. 137-FOM(PC)/93 dated 12.10.93.

By order of the Governor

Sd/-

Joint Secretary

To the Government of Tripura.

6. The Respondent No. 5 Director of Horticulture & Soil Conservation, Government of Tripura clarified the matter to the Petitioner by writing the following letter dated 10.5.95 (Annexure-M):

With reference to your letter No. F.1 (1)-TAS-iv/BIM/PF/94-95 dated 4.5.95 on the subject cited above, this is to inform you that entitlement of the higher pay scale of Rs. 3000-5000/- is due to admissible after completion of 4(four) years of service from the date of implementation of the higher pay scale of Rs. 2100-5000/- for which Finance Department has already given their clarification and notification No. F.2(19)-Agri (Esstt) 93-94 dated 30.11.93 had been issued accordingly by Agriculture Department.

7. It is not disputed by the learned Counsel for the Petitioner that the State Government of Tripura had the power to enhance this pay scale to the post of Grade-IV TAS from what was prescribed in the ROP Rules to the said post. The State Government have also the power to specify the date(s) from which such enhanced pay scale(s) shall be effective. I find that the State Government Office Memorandum dated 7.12.1992 (Annexure-D) enhancing the pay scale to the post in Grade-IV TAS and specifying the date from which such enhanced pay scale shall be effective suffers from no legal or constitutional infirmity. The Notification dated 30.11.93 (Annexure-N) and the letter dated 10.5.95 (Annexure-M) were issued by way of clarification only in regard to the State Office Memorandum dated 7.12.92 (Annexure-D).

8. There is, therefore, no merit in this writ petition. The Civil rule is dismissed. No costs.