
(2015) 09 TP CK 0015
In the Tripura High Court
Case No : WP(C) No. 324 of 2008

Hiranmoy Roy

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 04-09-2015

Acts Referred:

Citation : (2015) 09 TP CK 0015

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : D. Bhattacharjee, for the Appellant; S. Chakraborty, Addl. G.A.,
Advocates for the Respondent

Final Decision : Allowed

Judgement

S.C. Das, J—By filing this writ petition the petitioner inter alia prayed for the following reliefs:-

"(iii) Issue Writ directing the respondents and each of them to set aside and quash the office order No. F.2-7594(P)/Part-III/11878-11879, dated 03.12.2007 forthwith and in no time;

(iv) Issue Writ directing the Respondents and each of them to allow the Petitioner the scale of pay of Rs. 6500-12300/- for his completion of 7 years in the scale of pay of Rs. 6500-12300/- for his completion of 7 years in the scale of pay of Rs. 5500-10700/- (CAS-I) w.e.f. 15.12.2004 as the CAS-2 with all arrear pay and allowances forthwith and in no time;

(v) Issue Writ prohibiting the Respondents and each of them from recovering any amount from the Petitioner in pursuance to the office order No. F.2-7594(P)/Part-III/11878-11879, dated 03.12.2007 and directing the Respondents and each of them further that in the event of any recovery in any manner in pursuance to office order No. F.2-7594(P)/Part-III/11878-11879, dated 03.12.2007 be refunded to the Petitioner forthwith;

(vi) Issue Writ declaring that the fitment of the Petitioner in the highest grade of Graded Scale No. 2 cannot be treated as grant of benefit of Career Advancement Scheme as the post of Artist was never re-designated or fitted to any grade by allowing any financial benefit.

2. Heard learned counsel Mr. D. Bhattacharjee for the petitioner and learned Addl. G.A., Mr. S. Chakraborty for the State-respondents.

3. The petitioner was appointed as an Artist under the Directorate of Agriculture of the Govt. of Tripura on 27.11.1987 in the pay-scale of Rs. 600-1440/-. After ROP Rule 1988 came into force, his pay-scale was revised to the scale of Rs. 1450-3710/- and his pay was fixed at Rs. 1450/- in the pay-scale of Rs. 1450-3710/-. The said pay-scale of Rs. 1450-3710/- was revised to Rs. 5000-10,300/- in the ROP Rules, 1999 and his pay was fixed at Rs. 6170/- in the pay-scale of Rs. 5000-10,300/-. As per Rule 10 of ROP 1999, according to the petitioner, he was entitled to the benefit of Career Advancement Scheme(CAS) after 10 years and 7 years of continuous and satisfactory services. Accordingly on his completion of 10 years of service he was given CAS-I w.e.f. 15.12.1997 and his pay was fixed in the scale of Rs. 5500-10,700/- and the pay was fixed at Rs. 6250/-. After completion of another 7 years of service i.e. 17 years of service, the petitioner made representation (Annexure-2 to the writ petition) on 25.07.2005 for allowing him CAS-II but the respondent No. 3 by issuing office order dated 03.12.2007 (Annexure-3 to the writ petition) not only refused to grant him CAS-II but further ordered that CAS-I was wrongly given to him and directed recovery of the excess payment. The office order dated 03.12.2007 reads as follows:-

"No. F.2-7594(P)/Part-III GOVERNMENT OF TRIPURA DEPARTMENT OF AGRICULTURE

Dated, Agartala, the 03/12/2007

OFFICE ORDER

In pursuance of the Finance Departments U.O. No. 215/FIN(PC/06) dated 22-12-06, C.A.S.-I allowed to Hiranmoy Roy, Artist in the event of completion of 10(ten) years service in the same post was not in order and thus the pay etc. of Sri Hiranmoy Roy, Artist is to be refixed in the scale of Rs. 5000-10,300/- w.e.f. 15-12-1997. The over payment arised due to allowing the C.A.S.-I to Sri Roy, Artist should be recovered from his pay in monthly instalment with an intimation to the Department.

Sd/- DIRECTOR OF AGRICULTURE TRIPURA"

The petitioner thereafter made representation but received no positive response and hence this writ petition.

4. The respondents contended that the petitioner was already fitted in the highest graded scale and therefore, he was not entitled to the benefit of Rule 10

of ROP Rules, 1999. The stand of the respondents has been clearly stated in Para 8 of the counter affidavit which reads as follows:-

"8. That the case of the Respondents in short is that the petitioner joined the service in the Agriculture Department, Government of Tripura on 15th December, 1987 in the post of Artist and his pay scale was Rs. 600-1440/-. In the year 1988 there was revision of payscale of the employees of the State Government w.e.f. 01-1-1986 as a result petitioner's pay was revised to Rs. 1450-3170/- w.e.f. 15-12-1987. Thereafter in 1999 there was another revision of payscale of the State Government employees w.e.f. 01-1-1996. The petitioner was given one CAS-I benefit i.e. granted higher pay-scale under 1999 R.O.P. Rules. But subsequently it was detected that granting of C.A.S. benefit to the petitioner was wrong because of the 1999 R.O.P. it was stipulated that if an employee already reached to the highest grade in the 1988 R.O.P. Rules he is not entitled to CAS benefit movement under 1999 pay Rules. Since the petitioner reached to the highest payscale of the graded pay scale he would not be granted CAS movement."

5. It is an undisputed fact that the petitioner was appointed as an Artist and he continued in the same post since there is no promotional post of the post of Artist. He was appointed on 27.11.1987 in the scale of Rs. 600-1440/-. In ROP Rules 1988 vide graded scale No. 2 the scale of Rs. 600-1440/- was revised to Rs. 1450-3710/- and he was given that pay-scale. In ROP Rules, 1999 that scale was revised to Rs. 5000-10,300/- and he was given the benefit of that scale.

6. Now let us see, Rule 10 of ROP 1999. Rule 10(b) is applicable to the case of the petitioner, indisputably. It reads as follows:-

"10(b) The employees entering by direct recruitment in the existing scales No. 4 to 10 or revised scale No. 5 to 11 or corresponding earlier scale will have 2 scale advancement in next higher scales as per table in Annexure "A" at the end of 10 and 7 years of continuous & satisfactory service in the entry scale and higher scale of promotion/gradation or advancement respectively, as the case may be, to the higher scales unless they get promoted to higher scale before the prescribed period at each stage."

7. According to the above rules, the petitioner is entitled to CAS-I on his completion of 10 years of satisfactory service and CAS-II on his completion of 17 years of services.

8. It is vehemently contended by learned Addl. G.A., Mr. S. Chakraborty that as per ROP Rules, 1988 the petitioner was already fitted in the highest graded scale of the Artist and therefore, he was not entitled to any further scale advancement as per Rule 10(b) of ROP Rules, 1999. Mr. Chakraborty specifically referred to proviso No. iii of Rule 10(b) and according to him since the pay of the petitioner was already fixed in the highest scale meant for the Artist, he was not entitled to any further scale advancement by way of CAS.

Proviso iii of Rule 10 reads as follows:-

"10(iii) The existing employees who have already availed the prescribed No. of scale advancements by way of promotion or gradation under part B or C of TSCS(Revised pay) rules 1988 as per Rule 5(3) thereof as on 01-01-1999 after entry in the service, will not be eligible for any further advancement."

9. Graded scale No. 2 under ROP Rules, 1988 reads as follows:-

10. It is the clear case of the petitioner that he was appointed as an Artist and there is nothing to show that he was appointed as an Assistant Artist or a Junior Artist and thereafter promoted as an Artist. He was directly appointed as an Artist in the scale of Rs. 600-1440/- and that pay-scale was revised to Rs. 1450-3710/- in the ROP Rules, 1988. I, therefore, find no justification in the submission of learned Addl. G.A., Mr. Chakraborty that the petitioner was fitted in the highest scale under ROP Rules, 1988 and thereby he should be disentitled from the benefit of Rule 10(b) of ROP Rules, 1999. The pay-scale of Artist has been mentioned in item No. 26 of the Agriculture Department at page 39 of ROP Rules, 1999. The entry made in Sl. No. 26 reads as follows:-

11. The above entry shows that the pay-scale of Rs. 1450-3710/- was revised to Rs. 5000-10,300/-. There is nothing to show that the petitioner was fitted in the highest scale to disentitle him from CAS-I and CAS-II as prescribed under Rule 10(b). The decision of respondents by office order dated 03.12.2007, therefore, is found to be without any justification and support of the relevant rules and therefore, Office Order dated 03.12.2007 is set aside and quashed. CAS-I was rightly given to the petitioner on his completion of 10 years of satisfactory service.

12. The respondents are directed to give the benefit of CAS-II to the petitioner as per Rule 10(b) of ROP Rules, 1999 on his completion of 17 years of satisfactory services and the benefit should be given within 90(ninety) days from today failing which the arrear amount shall carry interest @ 9% per annum.

13. The writ petition is accordingly allowed and stands disposed of.

14. Parties to bear their own costs.