

(2014) 11 TP CK 0034
In the Tripura High Court
Case No : Writ Petition (Civil) No. 279 of 2011
Jyotsna Das VsThe State of Tripura

Date of Decision : 13-11-2014

Acts Referred:

Citation : (2014) 11 TP CK 0034

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

Bench : Single Bench

Advocate : D.K. Biswas, Advocate for the Appellant; J. Majumder, Advocate for the Respondent

Judgement

S.C. Das, J.—Heard learned counsel, Mr. D.K. Biswas for the petitioner and learned State counsel, Mr. J. Majumder for the State respondents.

2. The writ petition is taken up for disposal at the order stage itself with the consent of learned counsel of both side.

3. The case of the petitioner is that she joined on 04.03.1987 as a Daily Rated Worker under the respondent No. 2 and was posted in the District Industries Centre, Dharmanagar, North Tripura. From the date of her appointment she had been working regularly as a Daily Rated Worker and a seniority list of Daily Rated Workers/Casual Workers as on 31.07.2007 was published on 03.09.2007 (Annexure-2 to the writ petition) and her name figured in Sl. No. 14 wherein it has been clearly mentioned that she is a Daily Rated Worker (DRW) and that she had been working from 04.03.1987.

4. It is contended by the petitioner that the State Government took a conscious decision to regularize all DRW/Contingent/Fixed Pay Workers working for 17 years in various departments and since she was also working for more than 17 years as a Daily Rated Worker she was also eligible to be regularized as per that Finance Department Memo dated 23.11.2005 (Annexure-1 to the writ petition). It is also contended by the petitioner that pursuant to that Memo dated 23.11.2005, some of the Daily Rated Workers mentioned in Sl. Nos. 4, 5, 8, 12 and 15 of the seniority list (Annexure-2 to the writ petition) were duly

regularized but she has been discriminated and was not regularized with her other colleagues of the same seniority list. It is alleged by the petitioner that pursuant thereto by an order dated 26.11.2008 (Annexure-4 to the writ petition) she and some other Daily Rated Workers/Casual Workers of the same Department were declared as Permanent Labour and the petitioner challenged that Memo alleging that she cannot be termed as Permanent Labour after 23 years of service as a Daily Rated Worker and thereby her right to be regularized pursuant to Memo dated 23.11.2005 was curtailed. She alleged that she has been unfairly treated and has been discriminated and prayed for directing the respondents to regularize her service as per Memo dated 23.11.2005.

5. Respondents contended that pursuant to Memo. Dated 23.11.2005 her name along with others (total 46 persons) was sent to the Finance Department and Finance Department by Memo dated 04.03.2006 (Annexure-R/3 to the counter affidavit) regularized the services of 12 Daily Rated Workers/Casual Workers with a direction to take step for creation of required number of posts for accommodating them in the concerned pay scale for regularization w.e.f. 01.02.2006. The petitioner's name since was not included in that list of the Finance Department she could not be regularized. To meet with the situation the service of the petitioner and others was declared as Permanent Labourer by Memo dated 26.11.2008 and there was nothing wrong in the action taken by the respondents and she was neither discriminated nor treated unfairly.

6. It is not in dispute that the petitioner was engaged as a Daily Rated Worker on 04.03.1987 under the respondent No. 2 and was posted in District Industries Centre, Dharmanagar, North Tripura. It is also not in dispute that the Directorate of Handloom, Handicrafts & Sericulture, Government of Tripura vide Memo dated 03.09.2007 (Annexure-2 to the writ petition) published a seniority list of Daily Rated Workers/Casual Workers as on 31.07.2007 and in that list the name of the petitioner was figured in Sl. No. 14 as a Daily Rated Worker. It is an admitted position that respondent No. 2 pursuant to Memo. dated 23.11.2005 (Annexure-1) forwarded 46 names of Daily Rated Workers/Casual Workers of the Department to the Finance Department for regularization of their services but out of them only 12 persons were regularized and those twelve persons includes the persons in Sl. No. 4, 5, 6, 8, 12 and 15 of the seniority list marked as Annexure-2. The respondents in their counter affidavit have not clarified as to why the petitioner was not regularized whereas her junior in the seniority list, i.e., Sabitri Prabha Dutta, whose name figured in Sl. No. 15 was regularized. It is also not clarified as to why the petitioner who joined as a Daily Rated Worker was suddenly termed as a Permanent Labour though she was entitled to be regularized as per Finance Department Memo dated 23.11.2005. It is, therefore apparently clear that the respondents did not act fairly and the petitioner was discriminated in the process. She was entitled to be regularized as per Finance Department Memo dated 23.11.2005 and hence I think it appropriate to give direction to the respondents to regularize her as per the said Memo under same terms when 12 other similarly situated persons were regularized.

7. The writ petition is accordingly allowed. Respondents are directed to regularize the services of the petitioner with effect from the date the other 12 persons were regularized from the seniority list and to complete the exercise within 90 days from today.