

**(2014) 11 TP CK 0018**

**In the Tripura High Court**

**Case No : Writ Petition (Civil) 585 of 2001**

**Narayan Chakraborty VsThe State of Tripura**

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**Date of Decision : 13-11-2014**

**Acts Referred:**

**Citation : (2014) 11 TP CK 0018**

**Hon'ble Judges : Utpalendu Bikas Saha, J**

**Bench : Single Bench**

**Advocate : A. Lodh, Advocate for the Appellant; S. Chakraborty, Addl. Gov. Advocate, Advocate for the Respondent**

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## **Judgement**

Utpalendu Bikas Saha, J.—Heard Mr. A. Lodh, learned counsel for the petitioners and Mr. S. Chakraborty, the learned Addl. Govt. Advocate for the state respondents.

2. The original writ petitioner No. 1 was appointed directly to the post of Control Panel Operator by the respondent No. 2 on 26th June, 1975 under the Medical and public Health Department in the pay scale of Rs. 125-200/-. Subsequently, the said scale of pay was revised to Rs. 240-440/- under the ROP Rules, 1975 with effect from 1.3.1974 vide Memo dated 11.12.1975.

3. The original writ petitioner No. 2 and 3 were appointed as General Duty Assistance (GDA) in the year 1964 and thereafter they were promoted to the posts of Dressers in the pay scale of Rs. 125-200/- in the year 1975 and subsequently the said scale of pay was revised to Rs. 240-440/-.

4. The original writ petitioner No. 4 was appointed first as General Duty Attendant and subsequently he was also promoted to the post of O.T. Assistant vide order dated 23.11.1995 issued by the Director of Health Services, Government of Tripura and he joined in the said post of O.T. Assistant on 23.2.1996. He retired from service on 31.10.2001.

5. The petitioner No. 5 was appointed as Dresser by the respondent 1 and 2.

6. The petitioner No. 6 was first appointed as General Duty Attendant in the year

1955 and thereafter he was promoted to the post of O.T. Assistant in the pay scale of Rs. 430-850/-. He joined his duty as O.T. Assistant on 5.10.1984. Although the promotion order was on ad-hoc basis, but subsequently he was also confirmed in the post of O.T. Assistant and retired from the post of O.T. Assistant and he was also granted graded pay scale under the ROP Rules, 1988.

7. It is stated that the post of O.T. Assistant and dresser are in the same rank and in the same scale of pay. Their prayer in the writ petition is for a direction to the respondents to grant the pay scale of Grade-II of Rs. 325-665/- with effect from 26.06.1975 to the petitioner No. 1 and to the petitioner No. 2 and 3 with effect from 1.3.1975 and the subsequent revised pay scale of Rs. 560-1300/- with effect from 1.1.1982 to the petitioner No. 1, 2 and 3 and the revised pay scale made thereafter of Rs. 1300-3200/- with effect from 1.1.1986 to the petitioner No. 1,2,3,4,5 and 6 and its further revised scale made in the ROP Rules, 1999.

8. It is the further case of the petitioner that their case is fully covered by the judgment of a Division Bench of the Gauhati High Court, Agartala Bench passed in W.A. 12 and 17 of 1996 wherein the Division Bench considered the memorandum dated 14.08.1981 stating, inter alia, that:

"In partial modification of this department Memo of No. F. 2. (37)-Fin (Cell)/69, dated, the 15th February, 1973(copy enclosed) and in supersession of this Department Memorandum of even number dated the 29th May, 1981 the Governor has been pleased to order that the pay scale of the non-medical technical and skilled personnel of Health & Family Welfare Department shall be revised in the scales of pay and from the dates as indicated in columns 3 and 4 of the table given below. The revised pay scales as specified in columns 3 and 4 will be effective from 21.1.72 and 1.3.74 respectively but arrears will be admissible from the date of issue of this order."

9. The Division Bench held that the pay of the writ petitioners in Civil Rule 48 of 1986, from which the aforesaid writ appeals arose, shall be notionally fixed in the grade-II pay scale w.e.f. 21.1.1972 and the higher scale of pay w.e.f. 1.3.1974 and the arrears would be paid w.e.f. 14th August, 1981. It is also the case of the petitioners that the grievances of the petitioners were fully covered by the judgment of the Division Bench passed in W.A 12 of 1996 wherein the Division Bench modified the judgment of the learned Single Judge as indicated above.

10. The respondents by way of filing their counter-affidavit contended that the petitioners are not similarly situated like the writ petitioners in Civil Rule No. 48 of 1986. Thus, their claim cannot be equated with them. It is further stated in paragraph-17 of the counter-affidavit that the petitioners have got their revised pay scale as per their entitlement in pursuance of the orders of encadrement issued during the period from 1973 to 1983 and thereafter they have got the revised pay scale as per ROP Rules, 1988 and 1999. Thus, there is no justification for allowing them any further relief as sought for.

11. In re-joinder affidavit, the petitioners denied the contention of the respondents.

12. It appears from the record that the petitioners are working as O.T. Assistant, Dresser, Controlled Panel Operator whereas in the earlier writ petition, the petitioners were O.T. Assistant. As there is dispute regarding payment of revision of pay scale to the petitioners as non-medical technical and skill personnel, it would be proper to direct the respondent No. 1 to place the grievances of the petitioners to the Secretary to the Government, Finance Department, and on receipt of the same, the Secretary Finance shall consider the grievances of the petitioners and if it is found that the petitioners are similarly situated like the petitioners of the earlier writ petition i.e. Civil Rule No. 48 of 1986 and their claim is fully covered by the judgment of the Division Bench passed in W.A. 12 of 1996, then the petitioners and/or the legal heirs of the petitioners should be provided the same benefit. The entire exercise shall be completed within a period of three months from today Ordered accordingly. The respondents are further directed to inform the petitioners the results of the decision taken.

13. With aforesaid order, the instant writ petition is disposed of.