
(2011) 01 GAU CK 0037
In the Gauhati High Court
Case No : Writ Petition (C) No. 363 of 2000

Smti Mita Bhattacharjee

APPELLANT

Vs

The State of Tripura

RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Citation : (2011) 01 GAU CK 0037

Hon'ble Judges : Brojendra Prasad Katakey, J

Bench : Single Bench

Advocate : P. Dutta and S. Deb, for the Appellant; B. Dutta, for the Respondent

Final Decision : Allowed

Judgement

B.P. Katakey, J.—The Petitioner, who is at present working as Junior Engineer (Electrical), Grade-I in the Department of Animal Resources Development Department, Government of Tripura, by the present writ petition has challenged the notification dated 31.7.2000, issued by the Director of the said department reducing the pay scale in which the salary to the Petitioner is payable, from Rs. 2100-4530/- to Rs. 2000-4410/-

2. An advertisement was issued by the Tripura Public Service Commission (for short "TPSC") on 22.7.1996, on the basis of the requisition of the State Government, to fill up the post of Junior Engineer (Electrical), Grade-I in Animal Resources Development Department in the pay scale of Rs. 2100-4530/-, pursuant to which the Petitioner applied. On the basis of the recommendation of the TPSC, which was accepted by the State Government, an offer of appointment was issued by the Director of the said department to the Petitioner offering the said post in the pay scale of Rs. 2100-4530/-, which having been accepted, the formal order of appointment dated 31.1.1997 was issued by the Director formally appointing the Petitioner in the said post in the aforesaid pay scale of Rs. 2100-4530/- per month. The Petitioner accordingly joined her services on 10.2.1997. A tentative seniority list of the Junior Engineers (Electrical), Grade-I

of the department was circulated on 27.7.1999 and a final seniority list was thereafter published on 21.12.1999. It appears from the said gradation list that the Petitioner is the lone person in the grade of Junior Engineer (Electrical) Grade-I in the department and she is a graduate in electrical engineering. Thereafter, vide order dated 31.7.2000 passed by the Director, the pay scale attached to the said post as offered to the Petitioner, which was accepted by her, was sought to be reduced from Rs. 2100-4530/- to Rs. 2000-4410/-, which is under challenge in the present writ petition.

3. Mr. P. Dutta, learned Counsel appearing for the Petitioner, in backdrop of the aforesaid facts, has submitted that since the post was advertised giving the pay scale of Rs. 2100-4530/- and an offer of appointment was issued to the Petitioner giving the said pay scale, the Director cannot subsequently reduce the pay scale as has been done in the instant case. It has also been submitted that there is no other Junior Engineer (Electrical), Grade-I in the department concerned and, therefore, the ground on which the pay scale is sought to be reduced is non-existent. Referring to the averments made in paragraph 12 of the writ petition it has also been contended by the learned Counsel for the Petitioner that the Junior Engineer, Grade-I of the other departments are paid the salary in the pay scale of Rs. 2100-4530/- and, therefore, there is absolutely no justification in reducing the pay scale of the Petitioner.

4. Mr. B. Dutta, learned State counsel appearing for the Respondents, on the other hand, supporting the order dated 31.7.2000 passed by the Director has submitted that since a mistake was committed in the advertisement as well as in the offer of appointment and also the formal order of appointment issued by the TPSC and Director, respectively, in mentioning the pay scale as Rs. 2100-4530/- instead of Rs. 2000-4410/-, the said mistake has been rectified by the Director vide order dated 31.7.2000. It has also been submitted that the other Junior Engineers of the Animal Resources Development Department are paid the salary in the pay scale of Rs. 2000-4410/-, though the other Junior Engineers in other departments were paid the salary in the pay scale of Rs. 2100-4530/- those posts being cadre posts. The learned Counsel, therefore, submits that no illegality has been committed by the Director in issuing the order dated 31.7.2000.

5. I have considered the submission of the learned Counsel appearing for the parties and also perused the pleadings.

6. The facts narrated above are not in dispute. The advertisement was issued by the TPSC calling for the applications to fill up the post of Junior Engineer (Electrical), Grade-I in the department in the pay scale of Rs. 2100-4530/-. The Petitioner having been selected, offer of appointment was issued to her by the Director vide order dated 14.1.1997 giving the pay scale of Rs. 2100-4530/-. The Petitioner accepted the offer of appointment taking such pay scale and accordingly, the final order of appointment was issued on 31.1.1997 by the Director giving the same pay scale. The Petitioner accordingly joined the service

on 10.2.1997.

7. Since the advertisement as well as the offer of appointment and also the final appointment order were issued by the authority concerned giving the said pay scale of Rs. 2100-4530/- which has been accepted by the Petitioner, the authority cannot alter the same to the disadvantage of the Petitioner. That apart, though the State in the affidavit-in-opposition has contended that there are other Junior Engineers in the department concerned who are paid the salary in the pay scale of Rs. 2000-4410/-, the same could not be substantiated by placing any material on record. On the other hand, it appears from the tentative as well as the final seniority list published by the Director of the department that there is only one post of Junior Engineer (Electrical) Grade-I in the said department. It is also not in dispute that 5 the other Junior Engineers Grade-I in other departments are paid the salary in the pay scale of Rs. 2100-4530/-.

8. That being the position, there is no justification in reducing the pay scale of the Petitioner from Rs. 2100-4530/- to Rs. 2000-4410/- as has been done by the impugned order dated 31.7.2000.

9. The impugned order dated 31.7.2000 passed by the Director is, therefore, set aside. The writ petition is accordingly allowed.

No cost.