

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 289/2022**

Sri Swapan Barman,

S/O Late Aswini Barman, vill-Anandanagar, P.O-Anandanagar

P.S. Srinagar, District-West Tripura

Pin-799004

.....Petitioner

-VERSUS-

1. The State of Tripura, represented by the Chief Secretary, Government of Tripura, New Secretariat Complex, Kunjaban, P.S. N.C.C. District-West Tripura. Pin 799006

2. The Secretary, Department of Forest, Government of Tripura, New Capital Complex, Kunjaban, P.S. N.C.C. District-West Tripura. Pin 799006

3. The Managing Director, Department of Tripura Forest Development & Plantation Corporation Ltd., Government of Tripura, Abhoynagar, P.O. Abhoynagar, P.S. East Agartala. District-West Tripura, Pin-799005.

4. The Executive Director, Department of Tripura Forest Development & Plantation Corporation Ltd., Government of Tripura, Abhoynagar, P.O. Abhoynagar, P.S. East Agartala. District-West Tripura, Pin-799005.

5. Sri Dipak Chaudhury, Machine Operator, through the M.D. Department of Tripura Forest, Development & Plantation Corporation Ltd., Government of Tripura, Abhoynagar, P.O. Abhoynagar, P.S. East Agartala. District-West Tripura, Pin-799005.

6. Sri Biprajit Ghosh, Machine Operator, through the M.D. Department of Tripura Forest, Development & Plantation Corporation Ltd., Government of Tripura, Abhoynagar, P.O. Abhoynagar, P.S. East Agartala. District-West Tripura, Pin-799005.

.....Respondents

For Petitioner(s)	:	Mr. A.K. Pal, Advocate
For Respondent(s)	:	Mr. D. Bhattacharya, GA Mr. P. Maishan, Advocate
Date of hearing & delivery of judgment & order	:	25.08.2023
Whether fit for reporting	:	Yes/No

HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT & ORDER (ORAL)

Heard Mr. A.K. Pal, learned counsel appearing for the petitioner.
Also heard Mr. D. Bhattacharya, learned GA assisted by Mr. P. Maishan,
learned counsel appearing for the respondents-State.

2. The petitioner has been serving as permanent worker of Tripura Forest Development & Plantation Corporation Ltd.(TFDPC, for short) since 1997 and at present he is serving as "Kiln Saw Bench Operator."

3. The petitioner had filed a writ petition before this court being numbered as WP(C) No.325 of 2011, which was disposed by this Court with the following observations and directions:

"8. The law is by now well settled. The contractual workers do not have any indefeasible right to claim regularisation. But, definitely their plight cannot be left unnoticed. The state has certain responsibility to give a dignified livelihood to the class of workers who are ensnared in a pitiable wage-situation without a better tomorrow. It has not been denied by the respondents that the petitioners were working as the 'Workers' under the Tripura Forest Development & Plantation Corporation Limited. It appears from the representations (Annexure-P/3 collectively to the writ petition) that some of the petitioners are even working as the factory workers since 1992.

9. Having regard to that aspect of the matter, the respondents are directed to frame a scheme within their resources to regularise the petitioners in a phased manner. As corollary to this observation, the Tripura Forest Development & Plantation Corporation Limited, the respondent No.2 is directed to explore the most suitable scheme and to notify that scheme by 31.03.2016. Thereafter, in terms of that scheme the petitioners shall be considered for their regularisation."

4. Mr. Bhattacharya, learned GA has submitted that in pursuance of the said judgment and order, the respondents have formulated a scheme and under the said scheme, the petitioner was absorbed as permanent worker. At para 11 of the counter affidavit it is clearly stated that *in pursuance to the notified scheme for factory workers, the petitioner has been engaged as permanent worker and by virtue of which his service condition in TFDPC Ltd. is regular in nature as permanent factory worker and is getting all above benefits of permanent worker as cited in table given under para 9* of the affidavit in opposition. At this juncture, it would be useful to reproduce hereunder the table given at para 9 of the counter affidavit.

Sl. No.	Particular	Annexed as
1	Copy of scheme for workers of Factories of TFDPC Ltd” notified vide NoN.F.2-194/Estt/TFDPC-15/9140-48 dated 28-12-2015	Annexure B
2	Copy of letter of Chief inspector of Factories with regard to agreeing with above scheme along with related proposal dated 22-09-2015 of MD TFDPC Ltd	Annexure B1
3	Copy of Letter of Labour Commissioner, Govt. of Tripura with regard to agreeing with above scheme along with related proposal dated 22-09-2015 of MD TFDPC Ltd	Annexure B2
4	Proposal of General Manager, TFDPC IE to regularize Petitioner of as Permanent worker	Annexure B3
5	Minutes of 144 th meeting of Board of Director of TFDPC Ltd vide which the Scheme for workers of Factories of TFDPC Ltd was approved-	Annexure B4
6	Notification regarding constitution of Committee for preparation of draft Scheme.	Annexure B5
7	Submission of report regarding preparation of draft scheme by the Chairman of the Committee	Annexure B6

5. Mr. Pal, learned counsel appearing for the petitioner heavily relying upon the judgment and order passed in WP(C) No.325 of 2011 submitted that regular pay scale has not been given to the petitioner.

6. I have considered the submissions of learned counsel appearing for the parties.

7. It is not the case of the petitioner that he has ever challenged the terms and conditions delineated in the scheme which was framed in pursuance of the directions of this Court. This Court has categorically directed the respondents to formulate a scheme keeping in mind their resources. Having regard to the directions of this Court, the respondents, particularly the TFDPC Ltd. had formulated a scheme and as per the scheme, the petitioner had been made permanent worker having the benefits as stated at para 9(supra).

8. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot direct the State or its instrumentalities to give pay scales to its employees, which is not prescribed under any rules of the organization. It is absolutely within the domain of the State authorities or its instrumentalities to prescribe pay scales for its employees.

9. So, I do not find any merit in the present writ petition for issuing direction upon the respondents to give the benefit of regular pay scale to the petitioner.

10. It transpires from the records that the petitioner has been working under TFDPC Ltd. for a considerable period of time. In view of this, the TFDPC Ltd. may take an initiative to explore whether any pay scale can be prescribed against the post, the petitioner is working, keeping in mind the resources of their organization.

With the above observations and directions, the instant writ petitions stands disposed.

JUDGE

Snigdha