

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A

WP(C) No. 163 of 2025

Dr. Anamika Das,
D/O-Lt. Debal Chandra Das,
W.O- Sri Nirmal Chandra Deb,
R/O- Vill-Amtali, P.O+P.S-Amtali,
District-West Tripura, Pin-799130, Aged about 42 Years.

.....**PETITIONER**

VERSUS

- 1. The State of Tripura,**
Represented by its Principal Secretary,
Department of Higher Education,
Govt. of Tripura, New Secretariat Complex,
P.O.- Secretariat, P.S.-New Capital Complex,
District-West Tripura, Pin-799010.
- 2. The Director of Higher Education,**
Department of Higher Education,
Govt. of Tripura, P.O.-Agartala,
P.S: West Agartala, Dist: West Tripura, Pin: 799001.
- 3. The Principal Secretary,**
Finance Department, Govt. of Tripura,
New Secretariat Complex, P.O: Secretariat,
P.S: New Capital Complex, Dist: West Tripura, Pin: 799010.

.....**RESPONDENTS**

For Petitioner(s) : Mr. Arijit Bhoumik, Advocate.
Ms. Ishpa Chakma, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. GA.

Date of hearing
& Delivery of judgment : 07.04.2026

HON'BLE MR. JUSTICE BISWAJIT PALIT

JUDGMENT & ORDER (ORAL)

07.04.2026

Heard learned counsel Mr. A Bhoumik, appearing on behalf of the petitioner as well as Mr. Mangal Debbarma, learned Addl. GA appearing on behalf of the State- respondents.

2. The present petitioner has filed this writ petition seeking the following reliefs:-

"I. Issue Notice upon the Respondents;

II. Call for the records;

III. Issue Rule calling upon the respondents to show cause as to why the Petitioner shall not be absorbed as Assistant Professor (Philosophy subject) as per the direction of this Hon'ble High Court vide judgment and order dated 28.11.2022 passed in W.P(C) No.257/2021 and under the scheme notified vide Notification dated 21.09.2022 w.e.f 05.01.2023 i.e. the date of absorption of other similarly situated.

AND

Issue Rule calling upon the respondents to show cause as to why the Petitioner shall not be extended with the pay scale attached to the post of Assistant Professor under the principle of equal pay for equal work.

AND

Issue Rule calling upon the respondents to show cause as to why the order dated 18.01.2025 whereby the absorption of the Petitioner has been regretted and shall not be set aside and quashed.

AND

Issue Rule calling upon the Respondents to show cause as to why the memorandum dated 13.02.2025 whereby the Respondents have suddenly withdrawn the scheme dated 21.09.2022 shall not be held to be illegal and struck qua of the Petitioner.

AND

Issue Rule calling upon the Respondents to show cause as to why the letter dated 05.01.2023 (Annexure- 10 to this Petition) whereby the Respondents have let out a promise to the Petitioner shall not be mandated to be enforced by the Respondents.

IV. And after hearing the parties be pleased to make the rule absolute.

AND/OR

Pass any other order/orders as deemed fit and proper by this Hon'ble Court.

AND

For this act of kindness your humble Petitioner as in duty bound shall ever remain grateful."

3. At the time of hearing, Learned Counsel appearing for the petitioner has drawn the attention of the Court that the petitioner was appointed as a part-time Contract Teacher for taking classes in Degree Colleges under Higher Education Department, Government of Tripura in the year 2007.

4. The State of Tripura took a policy decision to appoint 292 Part-Time Contract Teachers as Post Graduate Teachers. The policy decision was taken by the Council of Ministers followed by a memorandum dated 26.06.2010 whereby the petitioner and other similarly situated persons were appointed as Post Graduate Teachers in the pay scale of Rs.5310-24000/- with grade pay of Rs. 2400/- per month plus other allowances as per Government norms. Those Post Graduate Teachers were appointed under Department of Higher Education, Government of Tripura.

5. Since in the colleges the teaching faculty cannot be designated as Post Graduate Teachers, so the petitioner and other similarly situated persons were appointed for discharging their duties and responsibilities as Assistant Professor in colleges but were designated as Post Graduate Teachers and they were not paid the salary and remuneration meant for Assistant Professors as per UGC guidelines.

6. It was further submitted that initially 5(five) Post Graduate Teachers who possessed requisite qualifications as per UGC guidelines approached this High Court by filing writ petitions bearing Nos. WP(C) No.1391/2019, WP(C) No.1392/2019, WP(C) No.1393/2019, WP(C) No.1394/2019 and WP(C) No.1395/2019 and vide judgment and order dated

16.03.2021 passed in WP(C) No.1391/2019 and other batch matters, this Hon'ble High Court held that since the Post Graduate Teachers were discharging their duties as Assistant Professors in colleges and possessed requisite qualifications, they cannot be deprived of the equal pay attached to the post of Assistant Professors. So this High Court held that 5(five) Post Graduate Teachers were entitled to higher pay attached to the post of Assistant Professors and directed the State Government to frame a scheme to absorb the Post Graduate Teachers as Assistant Professors.

7. Challenging the judgment and order dated 16.03.2021, the State of Tripura preferred Intra Court appeals before the Ld. Division Bench of this Hon'ble High Court which were numbered as Writ Appeals No.201 to 205 of 2021 and the Division Bench of this High Court vide order dated 14.12.2021 stayed the operation contained in paragraph 14 of the judgment of Ld. Single Judge but directed the State to implement paragraph 15 of the judgment i.e. to frame a scheme for absorption of Post Graduate Teachers as Assistant Professors in Degree Colleges.

8. Thereafter, according to Learned Counsel, on 21.09.2022 the State Government framed a scheme for absorption of Post Graduate Teachers as Assistant Professor in degree collages and as per the said scheme the Post Graduate Teachers who had completed 12 years of service in the said post continuously, and possessed requisite qualifications like NET/SLET/SET/Ph.D were entitled to be absorbed as Assistant Professors.

9. Later on, the Writ Appeals bearing No. WA No.201 to 205 of 2021 were finally heard and the Ld. Division Bench of this Hon'ble High

Court by the said judgment dated 17.05.2023 confirmed para No.15 of the judgment rendered by the Ld. Single Judge.

10. Learned Counsel further drawn the attention of this Court that apart from the 5(five) Post Graduate Teachers who filed WP(C) No.1391 to 1395 of 2019, 21 other Post Graduate Teachers who were discharging their duties in degree collages and possessed requisite qualifications meant for Assistant Professors filed writ petitions before this High Court and the said writ petitions were pending before the Ld. Single Judge of the Hon'ble High Court of Tripura and after the scheme dated 21.09.2022 framed by the State of Tripura, this Hon'ble High Court allowed the writ petitions of said 21 post Graduate Teachers having qualifications and discharging duties of Assistant Professors in degree colleges.

11. The present petitioner who was appointed as Post Graduate Teacher pursuant to the policy decision of the State dated 26.06.2010 and possessed the minimum qualifications meant for the post of Assistant Professor, although filed the writ petition bearing No. WP(C) No. 257 of 2021 which was also allowed by this High Court and this High Court by the said judgment also directed the State respondents to absorb the petitioner subject to the availability of post within a period of 6(six) weeks but thereafter, the respondents issued one memorandum dated 05.01.2023 whereby 16 Post Graduate Teachers out of the 21 were designated as Assistant Professors by way of absorption in the available vacant posts.

12. But the petitioner was not absorbed *in spite* of specific direction of this High Court vide judgment and order dated 28.11.2022 passed in WP(C) No. 257 of 2021.

13. It is further submitted that the petitioner belongs to SC category candidate and as per judgment she is entitled to be absorbed as Assistant Professor. The petitioner also submitted a representation but that was not considered on the ground of non-availability of vacancy in the relevant subject of philosophy. It is also submitted by Learned Counsel that in spite of availability of posts, the grievance of the petitioner was not considered. So, the petitioner was compelled to file this writ petition.

14. The writ petition was contested by the respondents by filing counter affidavit. The respondents admitted the case of the petitioner but submitted that due to non-availability of posts the case could not be considered.

15. The petitioner has challenged the memo dated 18.01.2025 in the writ petition. However, at the time of hearing Learned Counsel for the petitioner has drawn the attention of the Court that the petitioner has challenged the memo dated 18.01.2025 issued by Addl. Secretary to the Government of Tripura, Higher Education Department. But in the meantime, this High Court by a judgment dated 05.03.2026 in WA No.13/2026 has granted relief to another similarly situated candidate namely, Dr. Sumana Majumdar and further submitted that the present case is squarely covered by the said judgment.

16. On query, Learned Counsel for the State respondents also admitted and shared the same view. I have also gone through the judgment delivered by the Division Bench of this High Court. In para Nos. 44-47 of the said judgment this High Court observed as under:-

“44. It is also not open to the learned Single Judge to comment on the judgment dt.16.03.2021 in WP(C) No.1391/2019 and batch, and hold the said judgment to be per incuriam. As held in State of Bihar v. Kalika Kuer alias Kalika Singh and Others, an earlier decision may seem to be incorrect to a Bench of a coordinate jurisdiction considering the question later, on the ground that a possible aspect of the matter was not considered or not raised before the court or more aspects should have been gone into by the court deciding the matter earlier, but it would not be a reason to say that the decision was rendered per incuriam and liable to be ignored. The earlier judgment may seem to be not correct yet it will have the binding effect on the later Bench of coordinate jurisdiction. Easy course of saying that earlier decision was rendered per incuriam is not permissible and the matter will have to be resolved only in two ways - either to follow the earlier decision or refer the matter to a larger Bench to examine the issue, in case it is felt that earlier decision is not correct on merits.

45. We cannot lose sight of the fact that the State did not argue the correctness of judgment dt. 16.03.2021 of the learned Single Judge in WP(C) No.1391/2019 as regards the direction contained therein to frame a scheme of absorption of PGTs as Assistant Professors in (i) WA No.201/2021 and batch, (ii) in WP(C) No.254/2021 and batch, and also (iii) in WP(C) No.276/2022 filed by the appellant, but had accepted and implemented it (except for the appellant).

46. The State cannot selectively allow some PGTs to get absorbed as Assistant Professors while opposing the appellant's claim for the same by raising pleas which it had not raised when other persons similar to the appellant had approached this Court.

47. Therefore, the judgment of the learned Single Judge cannot be sustained, and is accordingly set aside, and the instant Writ Appeal is allowed: the memo dt.13.02.2025 cancelling the notification dt.21.09.2022, is set aside, and the respondents are directed to absorb the appellant in the post of Assistant Professor within 8(eight) weeks.”

17. Since, the case of the petitioner is squarely covered by the aforesaid judgment of a Division Bench of this High Court. So, there is no other scope by the respondent State to deviate from the said judgment and to deprive the petitioner from her legitimate claim of absorption.

18. Hence the writ petition filed by the petitioner is hereby allowed. The respondents are directed to absorb the petitioner in the post of Assistant Professor within a period of 3(three) months from the date of delivery of judgment.

With this observation this present writ petition is disposed of.

JUDGE

