

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.171 of 2021

1. The State of Tripura, represented by the Chief Secretary to the Finance Department, Government of Tripura, having office at Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Agartala, District-West Tripura, PIN-799010.
2. The Secretary, to the Government of Tripura, Finance Department, having office at Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Agartala, District-West Tripura, PIN-799010.
3. The Law Secretary, to the Government of Tripura, having office at Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Agartala, District-West Tripura, PIN-799010.

..... Appellant(s).

V E R S U S

1. High Court Employees' Association, an Association, constituted by the employees of Hon'ble High Court of Tripura, having its office at Hon'ble High Court of Tripura, Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Agartala, District-West Tripura, PIN-799010.

Represented by its General Secretary, Sri Sandip Dey, having his official address at Hon'ble High Court of Tripura, Capital Complex, Gurkhabasti, P.O.- Secretariat, P.S.-New Capital Complex, District-West Tripura.

2. Sri Tapan Datta, son of late Rabindra Kumar Datta holding the post of Superintendent, having his official address at Hon'ble High Court of Tripura, Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, District-West Tripura.

3. Sri Arindam Das, son of Sri Sital Chandra Das, holding the post of Head Clerk, having his official address at Hon'ble High Court of Tripura, Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, District-West Tripura.

4. The Hon'ble High Court of Tripura, represented by the Registrar General, having office at Capital Complex, Gurkhabasti, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Agartala, District-West Tripura, PIN-799010.

.....Respondent(s).

For Appellant(s)	: Mr. Dipankar Sarma, Addl. G.A., Mr. Mangal Debbarma, Addl. G.A.
For Respondent(s)	: Mr. B.N. Majumder, Sr. Advocate, Mr. Somik Deb, Sr. Advocate, Mr. Abir Baran, Advocate, Mr. Pannalal Debbarma, Advocate, Mr. D.J. Saha, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

CAV reserved on : 12.08.2025.

Judgment delivered on : 27.08.2025.

Whether fit for reporting : YES.

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

1) Heard Mr. Dipankar Sarma, Addl. Government Advocate together with Mr. Mangal Debbarma, Addl. Government Advocate appearing for the appellants-State, Mr. Somik Deb, learned Senior Counsel assisted by Mr. Pannalal Debbarma, counsel appearing for the respondents No.1 to 3-High Court Employees' Association as well as Mr. B.N. Majumder, learned Senior Counsel assisted by Mr. D.J. Saha, counsel appearing for the respondent No.4-High Court of Tripura.

2) This Writ Appeal had been filed by the State of Tripura and others challenging the judgment dt.9.3.2021 of the learned Single Judge in W.P.(C) No.1741 of 2017.

W.P.(C) No.1741 of 2017

3) The said Writ Petition had been filed by the High Court Employees' Association (Respondent No. 1 in the Writ Appeal) and it's Office bearers (respondents No.2 and 3 in the Writ Appeal) to fix (i) the pay and other benefits of it's members on par with those of employees of the District Judiciary of the State of Tripura as per a judgment dt.11.8.2016 in W.P.(C) No.71 of 2015, and (ii) thereupon grant the benefits of pay upgradation to it's members in tune with an order dt.16.12.2017 of the District and Sessions

Judge, South Tripura (Annexure-8 in the Writ Petition) directing payment to the employees of the said District Judiciary benefits and allowances (as arrears) in terms of the 6th Central Pay Commission, applying the principle of 'equal pay for equal work', and thereupon grant pay and allowances.

The Impugned Judgment in W.P.(C)No.1741 of 2017 dt.9.3.2021

4) The learned Single Judge in his judgment dt.9.3.2021 allowed the Writ Petition stating that in a judgment dt.11.8.2016 in W.P.(C) No.71 of 2015 it was held that employees of the High Court are similarly situated to those employees in the District Judiciary, that the said judgment was affirmed by the Division Bench in W.A.No.12 of 2017 on 8.3.2017, and therefore the employees of the High Court cannot be denied benefit of revised pay structure as recommended by the 6th Central Pay Revision Commission w.e.f. 1.1.2006 and other allowances too as per the order dt.16.12.2017 of the District and Sessions Judge, South Tripura. He further held that they are also entitled to receive arrears of pay as per the revised pay structure from the date the staff of the District Judiciary were given the same. But noting the financial constraints pleaded by the Counsel for the State Government, he directed the appellants to implement the directions after 6 months, but within 8 months.

5) Challenging the same the instant Writ Appeal No.171 of 2021 was filed.

Events after filing of the Writ Appeal No.171 of 2021

6) In the W.A No.171 of 2021, reliance was placed by the State Government on Rule 16 of the High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules,2014 (for short 'the Rules') which came into effect from 13.6.2014. It is contended that the said Rule did not

grant parity to High Court employees with those in the District Judiciary but granted them parity with State Government employees. It was contended that this provision was not noticed by the learned Single Judge. Other pleas were also raised.

7) On 21.12.2021, a Division Bench of this High Court 'admitted' the Writ Appeal and at the same time directed the implementation of the 6th Central Pay Commission recommendations to the employees of the High Court also as it was already implemented to the employees of the District Judiciary.

8) The Bench also noted that the issue with regard to entitlement of employees of the District Judiciary to benefit of the 6th Central Pay Commission recommendations was pending in the Supreme Court in Civil Appeal No.9198-9199/2018, and in spite of the same, the State had given revised pay scales and allowances as per the said Commission's recommendations as there was an undertaking given by the Association of the employees of the District Courts that they will abide by the outcome of the said Civil Appeal.

9) This was questioned by the State Government in the Supreme Court by filing SLP.(Civil) No.8768 of 2022.

10) Notice was issued in the SLP on 22.7.2022 and this Court was requested to defer the hearing of the Contempt case filed by the Respondent no.1 Association seeking implementation of the Division Bench order dt.21.12.2021 pending further proceedings in the Supreme Court.

11) But on 14.5.2025, the Supreme Court adjourned the matter to 4.8.2025 and requested this Court to take up the W.A.No.171 of 2021 for final hearing regardless of pendency of the SLP.

The reference to the Full Bench

12) In view of the direction dt.14.5.2025 of the Supreme Court in SLP.(Civil) No.8768 of 2022, the Writ Appeal was listed before the Division Bench of this Court presided over by two of us (The Chief Justice and Justice S.D. Purkayastha).

13) After a brief hearing and also noticing the order dt. 22.7.2022 in the SLP No.8768/2022 where contention of the State Government based on Rule 16 of the High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules,2014 framed under Art.229 of the Constitution was recorded, and also noticing that the said rule was not referred to in the impugned judgment of the learned Single judge in W.P.(C) No.1741 of 2017 and also in W.P(C).No.71 of 2015, and *prima facie* opining that this might render the judgments in both cases *per incuriam*, and also noticing that this is a very important aspect having future repercussions, the matter was directed to be placed before the Chief Justice on the administrative side for referring it to a Full Bench.

14) Accordingly, the Full Bench was constituted and the matter was heard elaborately on 12.8.2025 and orders were reserved.

Consideration by the Court

15) The High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules,2014 (for short '**the Rules**') were notified on 13.6.2014. The preamble to the said Rules states:

“In exercise of the powers conferred by Art.229 of the Constitution of India, the Hon’ble the Chief justice of the High Court of Tripura with the approval of the Governor of the State of Tripura, so far as the rules relate to salaries, allowances, leave and pensions, is hereby pleased to make the following Rules to regulate the appointments, the conditions of service and the conduct of persons borne on the establishment of the High Court.”

16) Rule 16 deals with “Pay and Allowances”. In so far as it is relevant for our purpose, it states:

“ 16. Pay and Allowances-

(1) The pay band and grade pay of all the members in various grade/class of the service shall be as mentioned in the Schedules and they will be entitled to such allowances and other benefits as payable to the members of the State Government Service of the corresponding class/grade, subject to such amendments and variations as may be made by the Chief justice from time to time with the approval of the Governor where such approval is necessary.

The pay and allowances indicated in the said schedules shall stand amended as and when pay band, grade pay and allowances are revised for the members of the State Government service of the corresponding class/grade.

(2)”

(emphasis supplied)

17) Thus the rule states that the pay and allowances of the employees of the High Court will be on par with the pay and allowances of members of the State Government service of the corresponding class/grade. Whenever the grade pay and allowances are revised for members of the State Government

service, the pay and allowances of the employees of the High court will stand automatically revised.

18) It is very important to note that parity in regard to pay and allowances is not given by the said Rule with the pay and allowances of the employees of the District Judiciary.

19) Rule 17 is also relevant and deals with “Increment”. It states:

“ 17.**Increment**:-

The periodical increment shall not be given to a member of the service unless his conduct is good and work is satisfactory. Gazetted officers shall, however, draw their increments as a matter of course, unless the same is withheld by the Chief Justice.”

20) It is important to note that the above Rules have been framed by the Chief Justice of the Tripura High Court in exercise of the power conferred on him under Art.229 of the Constitution of India with the approval of the Governor of the State of Tripura.

21) Art.229 of the Constitution of India states:

“ **229. Officers and servants and the expenses of High Courts.**—

(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State [* *] may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.*

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a

High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State [* *].*

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.”(emphasis supplied)

22) Clause (1) of Art.229 of the Constitution of India states that appointments of officers and servants of the High Court shall be made by the Chief Justice of the High Court or on his direction; but if there is rule requiring the consultation with the Public Service Commission, he has to comply with the said requirement.

23) Clause (2) of Art.229 states that the Chief Justice will prescribe, by making Rules, the conditions of service of the officers and servants of the High Court and this is subject to law made by the legislature. Such Rules relating to salaries, allowances, leave and pension require approval of the Governor of the State.

24) The Supreme Court considered the scope of Art.229 of the Constitution of India in ***High Court of Judicature for Rajasthan v. Ramesh Chand Paliwal***¹.

¹ (1998) 3 SCC 72 : 1998 SCC (L&S) 786, at page 82

It held that the said Article makes the Chief Justice of the High Court the supreme authority in the matter of appointments of the High Court officers and servants; and that this article also confers rule-making power on the Chief Justice for regulating the conditions of service of officers and servants of the High Court subject to the condition that *if the rules relate to salaries, allowances, leave or pensions, they have to have the approval of the Governor of the State.*

If the legislature of the State has made any law, the rules made by the Chief Justice would operate subject to the conditions made in that law.

It declared that since, under the Constitution, the Chief Justice has also the power to make rules regulating the conditions of service of the officers and servants of the High Court, it is obvious that he can also prescribe the scale of salary payable for a particular post. *This would also include the power to revise the scale of pay. Since such a rule would involve finances, it has been provided in the Constitution that it will require the approval of the Governor which, in other words, means the State Government.*

It held:

“25. We again reiterate the hope and feel that once the Chief Justice, in the interest of High Court administration, has taken a progressive step specially to ameliorate the service conditions of the officers and staff working under him, the State Government would hardly raise any objection to the sanction of creation of posts or fixation of salary payable for that post or the recommendation for revision of scale of pay if the scale of pay of the equivalent post in the Government has been revised.”
(emphasis supplied)

Thus the State Government was held not entitled to make any objection if the Chief Justice makes a recommendation for revision of scale of pay *if the scale of pay of equivalent post in the Government has been revised.*

25) But, the salaries and allowances of High Court employees do not get revised automatically if the revision of pay is of employees of the District Judiciary and not that of employees of the State Government, and in such a situation, the State Government is not barred from objecting to claim made by the employees of the High Court if such claim is made on basis of revision of pay and allowances of the employees of the District judiciary.

26) In ***Union of India v. S.B.Vohra***² it was held that the provision of Art.229 is intended to maintain the independence of the judiciary and absolute control is conferred on the High Court over its staff without interference by the State Government subject to limitations imposed in the said Article, and ordinarily the State Government should grant approval to recommendation by the Chief Justice.

27) In ***Supreme Court Employees Welfare Association v. Union of India***³, the Supreme Court considered Art.146 (2) of the Constitution of India which conferred similar powers on the Chief Justice of India as those conferred on the Chief Justice of a High Court under Art.229, and held that while framing Rules, the Chief Justice must apply his mind, and while granting approval, the State Government must also apply it's mind to the rules framed by the Chief Justice of India relating to salaries, allowances, leave or pensions.

² (2004) 2 SCC 150

³ (1989) 4 SCC 187

28) In the instant case, High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules, 2014 were framed by the Chief Justice of the Tripura High Court, and after approval of the Governor, they had been notified on 13.6.2014. It is presumed that both parties had applied their mind and they were notified after following all formalities.

29) When Rule 16 of the High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules, 2014 mandates comparison of the pay and allowances of the employees of the High Court with only employees of the State Government in corresponding cadre/grade, we fail to understand how the members of the Respondent No.1 Association consisting of employees of the High Court, can seek parity of pay and allowances with District Judiciary employees.

30) Unless the Rule 16 framed by the Chief Justice is amended permitting parity in pay and allowances with District Judiciary employees, the members of the Respondent No.1 Association have no right to make a claim seeking parity in pay and allowances with employees of the District Judiciary.

31) Thus the learned Single Judge erred in law in granting relief to the members of Respondent No.1 Association without considering Rule 16 of the above Rules.

32) In *State of Maharashtra v. Assn. of Court Stenos., P.A., P.S.*⁴, the Supreme Court interfered with an order passed by the Bombay High Court granting, on basis of “equal pay for equal work” principle, to Stenos, Personal Assistants and certain other staff attached to High Court Judges on par with that being paid to similar categories attached to the Chief Secretary and

⁴ (2002) 2 SCC 141 : 2002 SCC (L&S) 218, at page 146 :

Additional Chief Secretary of the Maharashtra Government. The Supreme Court held that it is for the Chief Justice of the High Court to exercise such power under Art.229 (2) of the Constitution of India. It declared:

“ 5. It is no doubt true that the doctrine of “equal pay for equal work” is an equitable principle but it would not be appropriate for the High Court in exercise of its discretionary jurisdiction under Article 226 to examine the nature of work discharged by the staff attached to the Hon’ble Judges of the Court and direct grant of any particular pay scale to such employees, as that would be a matter for the learned Chief Justice within his jurisdiction under Article 229(2) of the Constitution. We, however, hasten to add that this may not be construed as total ouster of jurisdiction of the High Court under Article 226 to examine the nature of duties of an employee and apply the principle of “equal pay for equal work” in an appropriate case.”

(emphasis supplied)

33) So under Art.226 of the Constitution of India, the High Court cannot normally exercise discretion ignoring the role of the Chief Justice of the High Court under Art.229 of the Constitution of India and the Rules made by him thereunder.

34) In the impugned judgment, the learned Single Judge exercising jurisdiction under Art.226 of the Constitution of India , in spite of there being Rules i.e High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules,2014 framed by the Chief Justice under Art.229 of the Constitution of India, *ignored* Rule 16 thereof, and erred in holding that work/ duties of employees of the High Court are similar to employees in the District Judiciary; and so employees of the High Court cannot be denied benefit of

revised pay structure as recommended to employees of the District Judiciary by the 6th Central Pay Revision Commission w.e.f. 1.1.2006 and other allowances too. This is also a clear error in law since the power/discretion under Art.226 of the Constitution of India conferred on the High Court cannot be used to hold parity of employees of the High Court with employees of the District Judiciary.

35) Much reliance was placed by counsel for Respondent No.1 on the communication dt. 17.9.2014 of the then Registrar General of the High Court of Tripura informing the Secretary, Law Department of the State of Tripura of the recommendation of the then Chief Justice of the High Court of Tripura for payment of *one advance increment* to certain category of employees of the High Court. The said communication mentions the following view of the Chief Justice of the High Court as regards payment of *one advance increment* to employees of the High Court :

“It is apparent that till 1st September 2014 when the Tripura District Courts Ministerial Establishment (Recruitment and Conditions of Service) Rules,2014 were enforced, the minimum educational qualification in the subordinate courts for appointment of Lower Division Clerks (LDC) was only Madhyamik (10th Standard) whereas in the High Court, the minimum educational qualification is graduation for the last many years. The State Government has also implemented the report of the Shetty Commission whereby all judicial employees working in the subordinate Courts have been granted one advance increment.

I am of the view that the demand of the employees of the High Court belonging to Class-III non gazetted staff of the grade of Head clerk, UDC, Bench Assistant, LDC, other non-gazetted

Class-III staff, Assistant Librarian, Library Assistant, Programmer and Senior computer Assistant of the High Court service including Personal Assistant of Stenographer cadre and all the Group B and group C non gazetted staff of the grade of System Officer and System Assistant of the High Court of Tripura e-Courts Service for grant of one advance increment in their respective pay scales is justified.

As far as the claim of the employees of the High Court for grant of one further increment on the ground that they are graduate is concerned, it may be pointed out that it is only in the High Court Service that the minimum educational qualification is graduation. Till the Tripura District Courts Ministerial Establishment (Recruitment and Conditions of Service) Rules, 2014 were enforced on 1st September, 2014, the minimum educational qualification for these posts in the subordinate Judiciary was only Madhyamik (10th Standard). In the State Government also, the minimum educational qualification for these posts is Madhyamik (10th Standard).

As such, in my opinion, all the Class –III non gazetted staff of the grade of Head Clerk, UDC, Bench Assistant, LDC, Assistant Librarian, Library Assistant, Programmer and Senior Computer Assistant of the High Court Service including Personal Assistant of stenographer cadre and all the Group-B and Group-C non-gazetted staff of the grade of System Officer and System Assistant of the High court of Tripura e-Courts service should also get such one further advance increment because they are much higher qualified than their compatriots working in the subordinate Courts or in the State Government.

(emphasis supplied)

- 36) A plain reading of the above views of the Chief Justice of the High Court contained in the communication dt.17.9.2014 does not disclose that His Lordship had expressed any opinion as to whether the nature of duties

and responsibilities of the employees of the High Court is similar to that of employees of corresponding grade employed in the District Judiciary.

His Lordship only referred to minimum educational qualification prior to 1.9.2014 for appointment as LDC in the District Judiciary and for appointment as LDC in the High Court and grant of one advance increment to District judiciary employees by the Shetty Commission which had been implemented by the State Government.

37) Thus the same cannot be held to be an exercise done under Art.229 (2) of the Constitution of India.

38) A similar situation was considered in ***State of U.P. v. Section Officer Brotherhood***⁵.

In that case, the Chief Justice of the Allahabad High Court was given a representation by Section Officers, Private Secretaries, Bench Secretaries and Assistant Registrars working in the High Court of Judicature at Allahabad seeking pay and allowances paid to their counterparts working in the Delhi High Court. The Chief Justice forwarded the said representation to the State Government with a recommendation to consider the same favorably. When they approached the High Court by filing Writ Petitions, it allowed the same. However the Supreme Court set aside the judgments of the Allahabad High Court. It declared :

“17. There cannot be any doubt or dispute whatsoever that determination of different scales of pay for different categories of employees would ordinarily fall within the realm of an expert body like the Pay Commission or Pay Committee. The Chief Justice of a High Court exercises constitutional power in terms of Article 229 of the Constitution of India which reads as under:

⁵ (2004) 8 SCC 286 : 2004 SCC (L&S) 1115, at page 296 :

“229. Officers and servants and the expenses of High Courts.—

.... ...

18. Such a provision has evidently been made to uphold the independence of the judiciary.

19. A bare perusal of the aforementioned provision would clearly go to show that laying down the conditions of service applicable in the case of staff and officers of a High Court is within the exclusive domain of the Chief Justice but in case of any financial implication involved therein the approval of the State Governor is imperative.

... ..

31. In this case, the Chief Justice merely forwarded the representation of the respondents dated 15-3-1994 for grant of a higher scale of pay with effect from 1-1-1986 directing the Registry to forward the same to the State Government with recommendations to consider the same on the ground of parity. Such forwarding of recommendations to the State Government did not involve any application of mind on the part of the Chief Justice as was required under Article 229 of the Constitution of India. The Chief Justice on his own did not arrive at any decision that the jobs performed by the officers concerned were comparable to their counterparts in the Central Secretariat or the Delhi High Court. No rule was framed fixing the terms and conditions of service or the scale of pay for different categories of employees of the High Court. Only because in the forwarding letter, the State Government was asked to consider the demand of the officers concerned favourably, the same by itself would not mean that the requirements of Article 229 of the Constitution stood complied with. Unless the Chief Justice of the High Court exercises his constitutional power or acts on the basis of the recommendations of a committee constituted by him for the purpose of fixation of scale of pay and laying down other

conditions of service; only forwarding of a representation to the State Government to consider the same favourably without anything more would not amount to exercise of the constitutional jurisdiction under Article 229 of the Constitution.”

(emphasis supplied)

39) Further, this communication dt.17.9.2014 was sent by the Registrar General of the High Court to the State Government in response to a representation dt.3.9.2024 of the Respondent No.1 Association.

In the said representation, the Association mentioned about grant of *pay and other benefits as admissible to employees of the Subordinate Judiciary under the recommendation by the Shetty commission*. It was contended that due to implementation of the Shetty Commission Report in the Subordinate Judiciary in the State of Tripura, the employees of the High Court of Tripura, are now getting lesser pay in their respective post/grade than the employees of the subordinate judiciary.

In addition thereto, there was a request also made for grant of one advance increment to employees of the High Court of Tripura w.e.f.1.4.2003.

40) The Chief Justice of the High Court as recorded in the communication dt.17.9.2014 only recommended the payment of *one advance increment* to the employees of the High Court *but did not recommend payment to them, the pay and allowances being paid to employees of the District Judiciary*. Nothing is placed before us to show that he even did an exercise to compare the duties and responsibilities of employees of High Court vis-à-vis their counterparts in the District Judiciary. This is a very important fact.

41) Also pay and allowances are governed by Rule 16 of the High Court of Tripura Services (Appointment, Conditions of Service and conduct)

Rules, 2014 and a recommendation for revising the pay and allowances requires approval of the Governor as per Rule 16 r/w Art. 229(2) as held in case of ***High Court of Rajasthan*** (1 supra) and also ***State of U.P.*** (5 supra). There is no such approval of the State Government/Governor for revising pay and allowances of High Court employees in the instant case.

42) For recommending payment of *one advance increment*, the applicable Rule is Rule 17, which does not require approval of the Governor/State Government.

43) Therefore, the employees of the Respondent No.1 Association cannot place any reliance on the recommendation of the then Chief Justice contained in the communication dt.17.9.2014 recommending release of *one advance increment*, for their claim for parity of pay and allowances with employees of the District Judiciary.

44) The learned single Judge erred in accepting such a plea raised by the Respondent No.1 Association.

45) The Respondent No.1 Association as well as learned Single Judge in the impugned Judgement have placed reliance on the judgment dt.11.8.2016 in W.P.(C) No.71 of 2015. So let us see what that Writ Petition decided.

W.P.(C) No. 71 of 2015 and the judgment dt.11.8.2016 therein confirmed in judgment dt.8.3.2017 in W.A.No.12 of 2017

46) W.P.(C) No. 71 of 2015 had been filed by the same Respondent No.1 Association for:

(a) fixing the pay and other benefits of the members of the Association at par with the employees of the District Judiciary of the State of

Tripura and grant arrears of pay and allowances to its members w.e.f. 1.4.2003 as granted to employees of the Subordinate Judiciary of the State of Tripura (basing on the Justice Jagannath Shetty Commission recommendations) and

(b) payment of *one advance increment* to certain category of employees of the High Court because such increment was granted to employees of the District Judiciary. They also relied on the communication dt.17.9.2014 of the then Registrar General of the High Court of Tripura informing the Secretary, Law Department of the State of Tripura of the recommendation of the then Chief Justice of the High Court of Tripura.

47) The said Writ Petition had been *partly* allowed on 11.8.2016 and the members of the Respondent No.1 Association were declared entitled to relief (b) mentioned above in the said Writ Petition i.e., only *one advance increment* w.e.f.1.4.2003 *notionally* was directed to be paid till 31.12.2014 as was being paid to staff of the District Judiciary.

48) Relief (a) i.e., *for upgraded pay scales as granted to members of District Judiciary, was not granted*. The learned single Judge held:

“36. As per the Justice Shetty Commission’s recommendation, the said advance increment was granted w.e.f.1.4.2003 on the upgraded pay scale for the judicial staff of the Subordinate judiciary. That increment has merged with the pay scale as extended to the judicial staff of the subordinate judiciary w.e.f.1.1.2006. **No such upgraded pay scales either have been claimed by the petitioners or no such pay scales can be granted in their favor.** The employees/officers of the High Court of Tripura is entitled to 1 (one) advance increment, equal to the judicial staff of the Subordinate Judiciary w.e.f.1.4.2003

notionally till 31.12.2014, the preceding year of the filing of the Writ petition....”(emphasis supplied).

49) Thus the said relief is deemed to have been refused as per explanation V to Section 11 of the CPC which states:

“Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.”.

50) The principles of *Res Judicata* apply to Writ Petitions also.

51) In ***Beerbal Singh v. State of U.P.***⁶, the Supreme Court considered a similar situation and declared that a second Writ petition for a relief denied in a previous Writ petition was not maintainable.

*“1. The learned counsel appearing on behalf of the appellants submitted that the dismissal of the first writ petition bearing CMWP No. 12999 of 1991 vide order dated 6-7-2005 passed by the Division Bench of the High Court of Judicature at Allahabad was in limine. It would be res judicata or constructive res judicata. For this purpose the learned counsel has relied upon the decision of this Court in ***Daryao v. State of U.P.***⁷ The learned counsel has drawn the attention of this Court to the following para of ***Daryao*** case: (AIR pp. 1465-66, para 19)*

“19. We, must now proceed to state our conclusion on the preliminary objection raised by the respondents. We hold that if a writ petition filed by a party under Article 226 is considered on the merits as a contested matter and is dismissed, the decision thus pronounced would continue to bind the parties unless it is otherwise modified or reversed by appeal or other appropriate proceedings permissible under the Constitution. It would not be open to a party to ignore the said judgment and move this Court under Article 32 by an original petition made on the same facts

⁶ (2018) 13 SCC 675, at page 675 :

⁷ AIR 1961 SC 1457

and for obtaining the same or similar orders or writs. If the petition filed in the High Court under Article 226 is dismissed not on the merits but because of the laches of the party applying for the writ or because it is held that the party had an alternative remedy available to it, then the dismissal of the writ petition would not constitute a bar to a subsequent petition under Article 32 except in cases where and if the facts thus found by the High Court may themselves be relevant even under Article 32. If a writ petition is dismissed in limine and an order is pronounced in that behalf, whether or not the dismissal would constitute a bar would depend upon the nature of the order. If the order is on the merits it would be a bar; if the order shows that the dismissal was for the reason that the petitioner was guilty of laches or that he had an alternative remedy it would not be a bar, except in cases which we have already indicated. If the petition is dismissed in limine without passing a speaking order then such dismissal cannot be treated as creating a bar of res judicata. It is true that, prima facie, dismissal in limine even without passing a speaking order in that behalf may strongly suggest that the court took the view that there was no substance in the petition at all; but in the absence of a speaking order it would not be easy to decide what factors weighed in the mind of the court and that makes it difficult and unsafe to hold that such a summary dismissal is a dismissal on merits and as such constitutes a bar of res judicata against a similar petition filed under Article 32. If the petition is dismissed as withdrawn it cannot be a bar to a subsequent petition under Article 32, because in such a case there has been no decision on the merits by the court. We wish to make it clear that the conclusions thus reached by us are confined only to the point of res judicata which has been argued as a preliminary issue in these writ petitions and no other. It is in the light of this decision that we will now proceed to examine the position in the six petitions before us.”

2. The High Court had dismissed the previous writ petition after fifteen years after hearing the learned counsel for the parties and that too on merits not in limine. Reasons have also been assigned for the dismissal of the writ petition. The only ground raised in the previous writ petition was with respect to Section 17(1) which has been dealt with in the impugned order which was passed by the Division Bench of the High Court on 6-7-2005. Thus filing of the second writ petition was not only misconceived but ill-advised action and the new ground, which was urged for lapse of proceedings was not available to be raised in the second writ petition. Successive writ petition could not be said to be maintainable with respect to the same notification. Hence, it had rightly been dismissed by the High Court.

3. The appeal is dismissed with costs which are quantified at Rs 10,000 (Rupees ten thousand only) to be deposited in the Supreme Court Employees' Welfare Fund within a period of one month."

(emphasis supplied)

52) This was reiterated in several decisions of the Supreme Court including ***P.Bandopadya v. Union of India***⁸.

53) The Respondent No.1 Association, the High Court of Tripura and the State of Tripura are parties in the W.P.(C) No.71 of 2015 and also in W.P.(C) No.1741 of 2017. The matter relating to payment of salaries and allowances to employees of the High Court on par with employees of the District judiciary was directly and substantially in issue in both cases.

Once the Single Judge in W.P.(C) No.71 of 2015 held that ***no such pay scales can be granted in their favor, even if he had erroneously noted that upgraded pay scales were not claimed by Respondent No.1***

⁸ (2019) 13 SCC 42

Association (because such upgraded pay scales on par with employees of employees of District Judiciary were undoubtedly claimed by the Respondent No.1 Association which was petitioner in the said W.P.), the Respondent No.1 is barred by **res judicata** from re-agitating their claim in W.P.(C) No.1741 of 2017.

54) Admittedly, the Respondent No.1 Association filed a W.A.No.12 of 2017, but they confined their claim in the Writ Appeal only to the limited extent of challenging the direction of the learned Single Judge who granted one advance increment *notionally* from 1.4.2003 to 31.12.2004.

The Respondent No.1 Association, in the said Writ Appeal, did not challenge the denial of relief as regards pay and allowances to High Court employees on par with employees of the District Judiciary in the judgment of the learned Single Judge in W.P.(C) No.71 of 2015.

The Division Bench on 8.3.2017 interfered in W.A.No.12 of 2017 with the judgment of the learned Single Judge in W.P.(C) No.71 of 2015 only to the limited extent of granting the one advance increment to employees of the High Court w.e.f.1.4.2003 and directing payment of arrears in 180 days. Rest of the judgment of the learned Single Judge, where he denied to employees of High Court pay and allowances on par with employees of the District Judiciary, was not interfered with.

So the denial of relief by the learned Single Judge in W.P(C).No.71 of 2015 to employees of High Court, as regards the pay and allowances on par with employees of the District Judiciary, had attained finality.

55) The State Government filed SLP.No.39927/2017 in the Supreme Court challenging the Division Bench judgment in W.A.No.12 of 2017, but on the ground of delay in filing it, the SLP was dismissed on 9.2.2018.

56) Thereafter the State Government also filed a review petition before this Court but the same was also dismissed.

57) These events will in no way alter the finality of the denial of relief to Respondent No.1 Association of parity in pay and allowances with employees of the District Judiciary and the said issue cannot be re-agitated by them in W.P.(C) No.1741 of 2017.

58) Any finding recorded in W.P.(C) No.71 of 2015 as at:

(i) para 31, that “*there exists equivalence of duties and responsibilities between the judicial staff of the Subordinate Judiciary vis-a-vis the employees of the High Court in respect of certain posts*”, and “*that in the counter affidavit filed by respondent no.3 (the Registrar General of the High Court) , ...there is no denial to the averment of equivalence*” (on an erroneous reading of the communication dt.17.9.2014 of the Registrar General containing the views of the then Chief Justice).

(ii) para 32 that “*this court is not required to make such complex studies (for examining the equivalence of duties and responsibilities of the two cadres) in view of the stand taken by the respondents*” and “*there cannot be inherent defects in comparing and evaluating the works done by the different categories of employees in those 2 (two) organizations*” (contrary to the settled legal position to the contra set out above)

(iii) para 34 that “ *the respondent no.2,4 and 5 did not raise any objection to make the distinction or the basis on which it can be held that the*

equivalence cannot be drawn or it requires studies by the expert body. On the contrary, there is no such objection at all”(though this was denied in their pleadings) cannot therefore come to the assistance of the Respondent No.1 Association for sustaining the impugned judgment of the learned Single Judge for the several reasons already set out by us above.

59) The learned Single Judge at para 14 of the impugned Judgment held as under:

“14. In my opinion, having gone through the findings of the learned Single judge in W.P.(C). No.71 of 2015 , the fact that the employees of the High Court are similarly situated to those of the employees of subordinate judiciary is no longer res integra, which would be evinced from the judgment itself. ... In the said judgment, the learned Single judge after a comprehensive enquiry has clearly spelt out that the employees of the High Court are similarly situated to those of the staff of the subordinate judiciary in regard to their duties and responsibilities. This finding of fact has been further affirmed by a division bench of this court which was approved by the Supreme Court. As such , this finding has attained its finality.

15. ... Since it is already decided that the employees of the High Court are similarly situated to those of the employees of the subordinate judiciary, I do not find any reason to deny the employees of this High Court from their legitimate entitlement of the benefit of revised pay structure as recommended by the 6th Central pay Commission w.e.f.1.1.2006 and other allowances in terms of the order dt.16.12.2017.”

We disagree with the said view of the learned single Judge in the impugned Judgment and hold that he has erred in coming to the said conclusions.

60) The learned Single Judge in the impugned Judgement also referred to a judgment of this Court in W.P.(C) No.617 of 2015. We shall also consider the said judgment.

One Tarun Kumar Sinha, an Accountant in the District and Sessions Court, Gomati District, Udaipur along with the Tripura Judicial Employees Association had filed the said Writ petition in this Court against the State of Tripura and its Finance Secretary challenging a notification dt.10.9.2015 and sought a direction to the respondents in the Writ petition to apply the revised pay structure in terms of the 6th Central Pay Commission.

The issue raised in the Writ Petition was :

“Whether the State Government can pay to employees of the District Judiciary pay and allowances under the revised pay structure as per TSCS (RP)(12th Amendment) Rules,2015 which were lower than what they were held entitled to by the 6th Central Pay Commission?”

In the judgment dt.31.8.2016, a learned Single Judge allowed the Writ Petition.

Referring to the judgment dt.16.3.2015 in IA.no.297 in IA no.71A in WP(Civil) no.1022/1989 of the Supreme Court and relying on it, learned Single Judge in W.P.(C) No.617 of 2015 held that the Supreme Court has directed payment of 6th Pay Commission pay structure to employees of the District Judiciary w.e.f.1.1.2006, that plea of financial constraints cannot be urged by the respondents, and that employees of the District Judiciary are also entitled to arrears in terms of 6th Central Pay Commission recommendations such as difference of pay and allowances.

61) Before the learned Single Judge who heard W.P.(C) No.1741 of 2017, the judgment dt.31.8.2016 in W.P.(C) No.617 of 2015 was relied upon and it was contended by the Respondent No.1 Association that the said judgment was implemented by order dt.16.12.2017 to the employees of the District Judiciary and so, employees of the High Court should be given the same pay and allowances as the employees of the District Judiciary.

62) Except referring to it, the learned Single Judge did not rely on it.

63) We do not agree with the contention of the Counsel for respondent No.1 Association that the issues raised in W.P.(C) No.1741 of 2017 are covered by the judgment in W.P.(C) No.617 of 2015.

This is because, the W.P.(C) No.617 of 2015 relates to entitlement of employees of the District Judiciary to revised pay and allowances as per 6th Central Pay Commission recommendations, but the instant case relates to revised pay and allowances of High Court employees on par with employees of the District Judiciary employees. Thus the issues are entirely different. There is no finding recorded in the judgment in W.P.(C) No.617 of 2015 that duties and responsibilities of High Court employees are on par with those of District Judiciary employees of comparable grade/cadre. So the judgment in W.P.(C) No.617 of 2015 is not relevant.

64) In any event, the correctness of the said judgment is being considered by the Supreme Court in Civil Appeal No.9198-9899 of 2018 which is pending, and the same has not attained finality.

65) To sum up, we hold that the learned Single Judge:

(i) failed to note that the claim of the Respondent No.1 Association for pay and allowances on par with employees of the District

Judiciary was not granted in W.P.(C) No.71 of 2015 though claimed by Respondent No.1 Association therein, and such claim cannot be made afresh in W.P.(C) No.1741 of 2017 and is barred by *res judicata*;

(ii) ignored Rule 16 of the High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules,2014 which mandates comparison of the pay and allowances of the employees of the High Court with only employees of the State Government in corresponding cadre/grade and not with the employees of the District Judiciary;

(iii) failed to take into account the fact that when the Chief Justice is vested with power under Art.229(2) of the Constitution, discretion under Art.226 of the Constitution of India cannot normally be exercised to make a comparative assessment of duties and responsibilities of staff of the High Court and staff of the District Judiciary;

(iv) failed to appreciate that revision of pay and allowances of employees of the High Court involves financial implications and there ought to be at least consultation by the Chief Justice of the High Court with the State Government (which is not shown to have happened) apart from approval of the Governor/State Government under Art.229(2) of the Constitution, and so such benefit cannot be given to members of Respondent No.1 Association.

66) We also hold that Rule 16 of the of the High Court of Tripura Services (Appointment , Conditions of Service and conduct) Rules,2014 was erroneously omitted to be considered by the learned Single Judge in the impugned judgment in W.P.(C) No.1741 of 2017, though it was important to consider it, considering the claim of Respondent No.1 Association therein was

for revised *pay and allowances*. The said judgment of the learned Single Judge is *per incuriam* for the said reason.

67) Also in W.P.(C) No.71 of 2015, there was also a relief prayed for regarding revised pay and allowances on par with employees of the District judiciary, which was not granted. While denying the said relief, Rule 16 of the of the High Court of Tripura Services (Appointment, Conditions of Service and conduct) Rules,2014 had to be also considered, but this was not done. To this extent the said judgment is also *per incuriam*.

68) For all the aforesaid reasons, the judgment dt.9.3.2021 of the learned Single Judge in W.P.(C) No.1741 of 2017 is set aside; the WP(C) No.1741 of 2017 is dismissed; the W.A.No.171 of 2021 is allowed; the interim order dt. 21.12.2021 granted by the Division Bench in W.A. No.171 of 2021 is set aside; and the members of the Respondent No.1 Association are directed to refund within 6 months the amounts, if any, received by them pursuant to the judgment of the learned Single Judge as per the undertaking given by the members of the Respondent No.1 Association to the Registrar (Administration).

69) All other pending applications shall stand disposed of. No costs.

Dt. 27.8.2025

(M.S. RAMACHANDRA RAO, CJ)

70) I agree.

(DR. T. AMARNATH GOUD, J)

71) I agree.

(S. DATTA PURKAYASTHA, J)