

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.703 of 2025

1. Sri Sunanda Kumar Gangapadhyay, son of Late Satyabrata Ganguly, resident of 50, Hari Ganga Basak Road, P.O.-Agartala, P.S.-West Tripura, District-West Tripura, Agartala, PIN-799001.
2. Smt. Sumita Motayed (Roy), wife of Sri Jyotirmoy Roy, resident of Ramnagar Road No.4, P.O. & P.S.-Ramanagar, District-West Tripura, Agartala, PIN-799002.
3. Smt. Rinku Saha, wife of Sri Pradip Saha, resident of Dhaleswar A.A. Road, Near Tarun Sangha, P.O.-Agartala College, P.S.-East Agartala, District-West Tripura, Agartala, PIN-799004.
4. Smt. Chaitali Datta, wife of Sri Dipak Kumar Das, resident of 'Dreams Exotica' Flat Complex, Beside State Guest House, Bholagiri, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura, Agartala, PIN-799006.
5. Sri Arindam Das, son of Sri Sital Chandra Das, resident of East Shibnagar, Opposite of Udichi Club, P.O.-Agartala College, P.S.-East Agartala, District-West Tripura, Agartala, PIN-799004.
6. Sri Santanu Bhattacharjya, son of Late Subodh Chandra Bhattacharjee, resident of Village & P.O. Gandhigram, P.S. Narsingarh, District-West Tripura, Agartala, PIN-799009.
7. Sri Sandip Dey, son of Sri Anukul Chandra Dey, resident of High Court Staff Quarter Complex(Type-II), Ramnagar Road No.03, P.O. Ramnagar, P.S. West Agartala, District-West Tripura, Agartala, PIN-799002.
8. Sri Naresh Sharma, son of Late Mahendra Chandra Sharma, resident of Aralia Ekata Sangha, P.O. Aralia, P.S. East Agartala, District-West Tripura, Agartala, PIN-799004.
9. Sri Swadesh Bhattacharya, son of Late Manindra Bhattacharya, resident of "Malati Bhawan", Bhati Abhoynagar Vivekananda Road, P.O. Agartala, P.S. West Agartala, District-West Tripura, Agartala, PIN-799001.
10. Smt. Sangita Bhattacharjee, wife of Sri Ramsankar Bhattacharjee, resident of Krishnanagar, Old Kalibari Lane, Akhil Villa, P.O. Agartala, P.S. West Agartala, District-West Tripura, Agartala, PIN-799001.
11. Smt. Sarbani Sarma Roy, wife of Sri Prabal Bhattacharya, resident of Old Kalibari Lane, Krishnanagar, Near Skylark Club, P.O. Agartala, P.S. West Agartala, District-West Tripura, Agartala, PIN-799001.
12. Sri Narayan Banik, son of Late Sunil Chandra Banik, resident of Beltali, A.D. Nagar, Near Ex-M.L.A. Yadav Majumder House, P.O. & P.S. A.D. Nagar, District-West Tripura, Agartala, PIN-799003.
13. Sri Pranab Bhattacharjee, son of Late Shashi Mohan Bhattacharjee, "Asha Kutir" resident of Bhattapukur (Bapuji School Raod), P.O. & P.S. A. D. Nagar, District-West Tripura, Agartala, PIN-799003.

14. Sri Partha Sarathi Roy, son of Late Narendra Chandra Roy, resident of Dhaleswar Road No.06, P.O. Dhaleswar, P.S. East Agartala, District-West Tripura, Agartala, PIN-799007.

15. Sri Indubhusan Sarkar, son of Late Naresh Chandra Sarkar, resident of Village-Belabar (School Tilla), P.O. S.D. Mission Colony, P.S. Amtali, District-West Tripura, Agartala, PIN-799003.

16. Sri Biswajit Mallik, son of Shri Radheshyam Mallik, resident of Indranagar I. T. I. Road, P.O. Indranagar, P.S. New Capital Complex, District-West Tripura, Agartala, PIN-799006.

17. Sri Daya Sankar Chakma, son of Late G. L. Chakma, Resident of West Chanmari, P.O. Kunjaban, P.S. New Capital Complex, District-West Tripura, Agartala, PIN-799006.

18. Sri Hiralal Hrishidas, son of Late Bishnu Hrishidas, resident of G.S.I. Road, 79 Tilla, P.O. Kunjaban, P.S. New Capital Complex, District-West Tripura, Agartala, PIN-799006.

19. Smt. Mithu Debbarma, wife of Sri Tapojyoti Kishore Debbarma, resident of Palace Compound, West Gate, Opposite to Care and Cure Nursing Home, P.O. Agartala, P.S. West Agartala, District-West Tripura, Agartala, PIN-799001.

20. Sri Biplab Chakraborty, son of Late Ratan Chakraborty, resident of 38, Hari Ganga Basak Road, Post Office Chowmuhani, Behind West Women Police Station, P.O. Agartala, P.S. West Agartala, District-West Tripura, Agartala, PIN-799001.

21. Sri Bapi Deb, son of Late Sukumar Deb. resident of Jogendranagar, Mahasakti Road, P.O. Jogendranagar, P.S. East Agartala, District-West Tripura, Agartala, PIN 799004.

22. Sri Ajit Deb, son of Sri Rakesh Chandra Deb, resident of High Court Staff Quarter Complex (Type-II), Ramnagar Road No.03, P.O. Ramnagar, P.S. West Agartala, District-West Tripura, Agartala, PIN-799002.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, represented by its Secretary & Commissioner to the Department of Finance, Government of Tripura, having his office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Agartala Secretariat, P.S. New Capital Complex, Sub-Division-Sadar, District-West Tripura, Agartala, PIN-799010.

2. The Secretary & Commissioner, Department of Finance, Government of Tripura, having his office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Agartala Secretariat, P.S. New Capital Complex, Sub-Division-Sadar, District-West Tripura, Agartala, PIN-799010.

3. The LR & Secretary, Law, Law Department, Government of Tripura, having his office at New Secretariat Complex, Gurkhabasti, Agartala, P.O. Agartala Secretariat, P.S. New Capital Complex, Sub-Division-Sadar, District-West Tripura, Agartala, PIN-799010.

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

5. The Registrar General, having his office at the High Court of Tripura, Khejur Bagan, New Capital Complex, P.O. Agartala Secretariat, P.S. New Capital Complex, District-West Tripura, Agartala, PIN-799010.

6. The Registrar (Administration, P and M) In-Charge, having his office at the High Court of Tripura, Khejur Bagan, New Capital Complex, P.O. Agartala Secretariat, P.S. New Capital Complex, District-West Tripura, Agartala, PIN-799010.

.....Respondent(s).

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Ms. Adwitiya Chakraborty, Advocate.

For Respondent(s) : Mr. S.M. Chakraborti, Advocate General,
Mr. Dipankar Sarma, Addl. G.A.,
Mr. Sankar Lodh, Advocate,
Ms. Pinki Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

CAV reserved on : **30.03.2026.**

Judgment delivered on : **10.04.2026.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

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

Heard Mr. Somik Deb, learned Senior Counsel assisted by Ms. Adwitiya Chakraborty, counsel appearing for the petitioners as well as Mr. S.M. Chakraborti, learned Advocate General assisted by Mr. Dipankar Sarma, Addl. Government Advocate appearing for the respondents-State and Mr. Sankar Lodh, counsel appearing for the respondents-High Court of Tripura.

2. The petitioners are working as Superintendents and Assistant Registrars of the High Court of Tripura.

3. Out of the petitioners, persons who are working as Superintendents gave a representation on 20.07.2022 to the Registrar General of the High Court of Tripura requesting for providing Assured Career Progression (for short, ACP) for the Superintendents (Ministerial staff) in the High Court of Tripura at Agartala.

They had contended in the said representation that they are suffering from acute stagnation because there are only 8(eight) posts of Assistant Registrar as promotional posts for 20(twenty) posts of Superintendent Grade; most of the Superintendents older in age than those holding the posts of Assistant Registrars, would be retiring from the post of Superintendent itself after having served in the same post for much more than five years; and, therefore, the benefit of ACP should be granted to them on completion of 5(five) years of service in the said post.

They pleaded that such a benefit was extended to Private Secretaries-I vide the order dt.27.05.2022 of the High Court in WP(C) No.364 of 2021 and vide the Registry's Notification No.F.3(35)-HC/2022/2606, dt.28.01.2022 and so Superintendents also should get it.

4. On 10.08.2022, such of the petitioners who are working as Assistant Registrars in the High Court of Tripura (Group-A Gazetted) also made a similar request pointing out that such benefit of ACP was extended to Private Secretaries-I vide order dt.27.05.2022 of this Court in WP(C) No.364 of 2021 and vide Notification No.F.3(35)-HC/2022/2606, dt.28.01.2022 and so Asst. Registrars also should be given the said benefit.

They contended that the Asst. Registrars and Private Secretaries were on the same footing and are similarly situated officers of the Registry of

the High Court holding the same scale of pay. The Private Secretaries had been granted the ACP because their promotional scope was narrow. There are 13 posts of Private Secretary-I. The feeder post of Private Secretary-I is Private Secretary-II and there are only 7 posts of Private Secretary-II. The Asst. Registrars have only 2 promotional posts of Deputy Registrar and so their promotional scope is also narrow and most of the petitioners working as Asst. Registrars for previous 8 years will retire without getting any promotion.

5. The said representations were placed before the then Chief Justice of the High Court of Tripura.

6. The then Chief Justice of the High Court, exercising powers under Article 229 of the Constitution of India approved the proposal for amendment of the High Court of Tripura Services (Appointment, Conditions of Service and Conduct) Rules, 2014 for providing ACP after completion of 5(five) years continuous service in the same post as Assistant Registrar and Superintendent in the establishment of the High Court of Tripura.

7. The Registrar (Admn., P&M) addressed a letter to the L.R. & Secretary, Law Department, Government of Tripura, Agartala on 11.11.2022 enclosing the amendment proposal to the respondents for approval of the Governor and a draft of the proposed amendment to the above Rules was also enclosed, which stated as under:

"1. Short Title and Commencement:

(1) These Rules may be called the "High Court of Tripura Services (Appointment, Conditions of Service and Conduct) (8th Amendment) Rules, 2022.

(2) They shall be deemed to have come into force with effect from 17.06.2014 i.e. the date when the High Court of Tripura Services (Appointment, Conditions of Service and Conduct) Rules, 2014 came into force.

Amendment of Schedule-I

In Column 7 of Schedule-I against serial No.5 and 6 of the High Court of Tripura Services (Appointment, Conditions of Service and Conduct) Rules, 2014, after the words "Pay Band-4 Rs.13575-37000/-with Grade Pay Rs.4500", and the words "Pay Band-3 Rs.9570-30000/-with Grade Pay Rs.3500" the following shall be inserted, namely:

"will be entitled to the benefit of ACP in the existing pay scale after 5 years of continuous service from the date of joining in the post on appraisal of work and performance by Hon'ble the Chief Justice."

By Order
(D.M.Jamatia)
Registrar General"

8. Thereafter, the ALC & Under Secretary, Law, Government of Tripura wrote a letter dt.04.02.2023 to the Registrar (Admn., P&M), High Court of Tripura, Agartala stating that the Law Department had taken up the matter with the Finance Department and the Finance Department had requested to clarify the following:

1. Which ROP Rules are presently being followed in the High Court Services.
2. The proposed scale to be offered under the ACP.
3. The number of financial upgradations (ACP) consumed at present by an incumbent in the post of Assistant Registrar and Superintendent respectively after taking into account the period of service offered in the Lower feeder Post."

He, therefore, requested the High Court to furnish the said information so that the matter can be pursued with the Finance Department of Government of Tripura.

9. On 02.09.2024, the Registrar (Admn., P&M) replied to the said letter in the following manner:

"Query No-1: Which RoP Rules are presently being followed in the High Court services ?

Reply: Tripura State Civil Services (Revised Pay)(1st Amendment) Rules, 2018.

Query No-2: The proposed scale to be offered under the ACP.

Reply: (a) Superintendent: Rs.64,100/-(Level-13)

(b) Assistant Registrar: Rs.1,01,000/- (Level-15)

Query No-3: The number of financial upgradations (ACP) consumed at present by an incumbent in the post of Assistant Registrar and Superintendent respectively, after taking into account the period of service offered in the Lower feeder post.

Reply: No financial upgradation as ACP has been consumed by any of the incumbents. who are working in the post of Assistant Registrar and Superintendent of this Registry as of now."

10. When there was no response from the respondents, the In-charge, Registrar (Admn., P&M) again addressed a letter on 15.05.2025 to the L.R. & Secretary, Law Department, Government of Tripura pointing out that no response had been received regarding the proposal for amendment of the above Rules for providing ACP after completion of 5(five) years of continuous service in the same post as Assistant Registrar and Superintendent in the establishment of the High Court of Tripura from the respondents, and that the L.R. & Secretary should take up the matter with the Finance Department of the Government of Tripura and do the needful.

11. On 16.05.2025, the petitioners gave another representation to the Registrar General of the High Court of Tripura stating that they had made a representation on 20.07.2022 for providing them the benefit of ACP after completion of 5(five) years of service in the same post, but till then, no information regarding its fate had been communicated to them and requesting Registrar General to do the needful at his end.

The impugned order:

12. After more than 2 years from the date of the proposal dt.11.11.2022 of the Chief Justice, the impugned order dt.02.06.2025 was communicated by the ALC & Under Secretary, Law, Government of Tripura to the Registrar (Admn., P&M), High Court of Tripura stating that the draft amendment of the above Rules as received from the High Court was placed before the Finance Department of the Government of Tripura and the latter, vide its U.O. No.149 FIN(Est-II)/2025, dt.27.05.2025 had observed as under:

" The Department is requested to follow Rule 12 of TSCS (RP) Rules and is also informed that the instant matter may be referred to the next pay commission or pay review committee, as a change to the TSCS (RP) Rules is required to be made for the proposal."

13. When this was communicated to the petitioners by the Registry of the High Court, they gave another representation on 11.07.2025 stating that they would file a Writ Petition in the Court for enforcement of their claim for ACP for Superintendents and Assistant Registrars.

The instant Writ Petition:

14. The instant Writ Petition was then filed by the petitioners after adverting to the above events contending *inter alia*:

(i) that the Chief Justice of this Court, being the competent authority under Article 229 of the Constitution of India, and by virtue of the administrative control vested in the High Court, having approved the proposal for extending ACP benefits to the petitioners, which was forwarded to the respondents on 11.11.2022, the latter were under a duty to take expeditious administrative action to implement the said proposal and the respondents' continued refusal, and inaction in that regard amounts to an unauthorized and arbitrary obstruction of a cogent administrative decision of the High Court.

(ii) that having granted such benefit of ACP to the Private Secretary-I vide Notification dt.28.01.2022 excluding the Assistant Registrars and Superintendents, who were similarly placed, denying of the same to petitioners, is violative of Articles 14 and 16 of the Constitution of India; and that selective conferral of ACP benefits without any intelligible differentia or rational nexus, is discriminatory.

(iii) that the direction of the Finance Department mentioned in the impugned letter that the matter would be referred to a future Pay Commission/Pay Review Committee indicates non-application of mind and failure to perform statutory/administrative obligations. They also contend that seeking of ACP within the existing pay band would not require any amendment to the Tripura State Civil Services (Revised Pay) Rules, 2017.

(iv) that the refusal of respondent No.3 to act on the proposal approved by the Chief Justice of the High Court and forwarded by the Registrar General undermines the constitutional scheme, and such executive inaction cannot defeat the High Court's administrative decisions. The doctrine of legitimate expectation is also being relied upon by the petitioners.

The stand of the Finance department of the State Government:

15. The Finance Department of the State of Tripura (respondents No.1 and 2) filed a counter affidavit contending that the proposal sent by the Registrar General to the Law Department was sent to the Finance Department as stated by the petitioners, but there was a well-established procedure in the Government that any proposal involving revision of pay, grant of financial upgradation, or modification of service conditions having financial implications was required to be examined by the Finance Department before concurrence was accorded as per the provision of the relevant Pay Rules.

16. They contend that, in discharge of this responsibility, the Finance Department examined the proposal with reference to the existing Tripura State Civil Services (Revised Pay) Rules, relevant service conditions and the likely financial implications for the State exchequer and during such examination, the said Department observed that certain essential information was required and had sought certain clarifications on 03.02.2023 to assess the financial liability involved and examined the proposal in conformity with the prevailing pay structure and service rules applicable across the State services.

17. It was stated that the proposal was examined in the light of the applicable provisions of the Tripura State Civil Services (Revised Pay) Rules and then the Law Department was informed by the Finance Department as stated supra.

18. Reference is also made to the current financial situation of the State of Tripura and it is stated that it is facing acute fiscal stress consequent upon the discontinuation of the Revenue Deficit Grant by the Government of India on the recommendations of the 16th Finance Commission. It is also

stated that as per the recommendations of the said Commission, the State's share in the divisible pool of the Central Taxes was also reduced from 0.708% to 0.641% under the revised formula. Therefore, exercising strict fiscal prudence, the above decision was taken.

19. Learned Senior Counsel appearing for the petitioners reiterated the submissions in the Writ Petition and the learned Advocate General reiterated the stand taken in the counter affidavit.

Consideration by the Court:

20. We have noted the submissions of the counsel for the parties.

21. Article 229 of the Constitution of India states as under:

"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."

22. Under sub-section (2) of the Article 229, 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, subject to the provisions of any law made by the legislature of the State. Proviso thereto states that 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.

23. In 1971, in *M. Gurumoorthy v. Accountant General*¹ a Constitution Bench of 5 Judges of the Supreme Court interpreted this provision and held that in the matter of appointment of the High Court officers and servants, the Chief Justice is the supreme authority and there can be no interference by the executive except to the limited extent indicated in Article 229 and that, however, if a matter relates to pay fixation, it has to have the approval of the Governor of the State.

24. In 1976, this was once again reiterated in *State of A.P. v. T. Gopalakrishnan Murthi*² and it was held that ordinarily and generally approval should be accorded to the proposals made by the Chief Justice. But the Supreme Court cautioned that it may not be appropriate to issue a Writ of Mandamus by the High Court. The Supreme Court declared:

"6. Leaving aside the proviso to clause (1) of Article 229 in the matter of appointments of officers and servants of a High Court the power is of the Chief Justice or of such other Judge or officer of the Court as he may direct. Under clause (3) the administrative

¹ (1971) 2 SCC 137

² (1976) 2 SCC 883

expenses of a High Court including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court are a charge upon the Consolidated Fund of the State. Any fees or monies taken by the Court formed part of that fund. There is no separate fund or power to raise it at the disposal of the High Court for the purposes of meeting the salaries etc. of the High Court staff. In this context clause (2) of Article 229 may now be read with the proviso appended thereto.

“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.”

If there is a law made by the Legislature of the State then subject to that law, otherwise without it, the Chief Justice or some other Judge or officer of the Court authorised by the Chief Justice is empowered to make rules laying down the conditions of service of the High Court staff. But if the Rules made under clause (2) relate to salaries, allowances, or pensions then since in them is involved the question of finance the framing of the rules under clause (2) requires the approval of the Governor — that means the State Government. One should expect in the fitness of things and in view of the spirit of Article 229 that ordinarily and generally the approval should be accorded. But surely it is wrong to say that the approval is a mere formality and in no case it is open to the Government to refuse to accord their approval. On the facts and in the circumstances of this case and in the background of the conditions which are prevalent in other States Government could have been well advised to accord approval to the suggestion of the

Chief Justice, as the suggestion was nothing more than to equate the pay scales of the High Court staff with those of the equivalent posts in the Secretariat. That merely because the Government is not right in accepting the Chief Justice's view and refusing to accord the approval is no ground for holding that by a writ of mandamus the Government may be directed to accord the approval.

... ..

For the reasons stated above we do not find it possible to sustain the judgment of the High Court in law. We, however, trust and hope that the Government will give their second thought to the matter and see whether it is possible in the State of Andhra Pradesh to obliterate the distinction in the matter of pay scales etc. between the High Court and the Secretariat staff. There does not seem to be any good and justifiable reason for maintaining the distinction.”(emphasis supplied)

25. More elaborate consideration of the same also took place in 1989 in the decision of the Supreme Court in ***Supreme Court Employees' Welfare Association v. Union of India***³ where a provision similar to Art.229 contained in Art.146 of the Constitution dealing with powers of the Chief Justice of India with regard to employees of the Supreme Court of India was considered.

It was held that the Chief Justice of a High Court and the Chief Justice of India have been placed at a higher level in regard to framing of rules containing the conditions of service; and that they should be looked upon with respect and their proposals with regard to pay scales etc., should normally be accepted unless there is a good reason not to grant approval. Even then, the President of India should not straight away refuse approval without exchange of thoughts by him with the Chief Justice of India.

³ (1989) 4 SCC 187

“7. So far as the Supreme Court and the High Courts are concerned, the Chief Justice of India and the Chief Justice of the concerned High Court, are empowered to frame rules subject to this that when the rules are framed by the Chief Justice of India or by the Chief Justice of the High Court relating to salaries, allowances, leave or pensions, the approval of the President of India or the Governor, as the case may be, is required. It is apparent that the Chief Justice of India and the Chief Justice of the High Court have been placed at a higher level in regard to the framing of rules containing the conditions of service. It is true that the President of India cannot be compelled to grant approval to the rules framed by the Chief Justice of India relating to salaries, allowances, leave or pensions, but it is equally true that when such rules have been framed by a very high dignitary of the State, it should be looked upon with respect and unless there is very good reason not to grant approval, the approval should always be granted. If the President of India is of the view that the approval cannot be granted, he cannot straightway refuse to grant such approval, but before doing so, there must be exchange of thoughts between the President of India and the Chief Justice of India.”

... ..

62. The rules framed by the Chief Justice of India should normally be accepted by the Government and the question of exchange of thoughts and views will arise only when the Government is not in a position to accept the rules relating to salaries, allowances, leave or pensions.”(emphasis supplied)

26. In 1998, in ***High Court of Judicature for Rajasthan v. Ramesh Chand Paliwal and Another***⁴, there was again consideration of the powers of the Chief Justice of a High Court under Art.229(2), and it was stated that he can not only prescribe the scale of pay for a post but also revise it and

⁴ (1998) 3 SCC 72

ordinarily the recommendation by the Chief Justice ought to be accepted. Further it was stated 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. It was held:

*“25. 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. This Court in **State of A.P. v. T. Gopalakrishnan Murthi** had expressed the hope that “one should accept in the fitness of things and in view of the spirit of Article 229 that the approval, ordinarily and generally, would be accorded”. This was reiterated by this Court in **Supreme Court Employees’ Welfare Assn. v. Union of India**. 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.”*

27. In *Union of India and another v. S.B. Vohra and others*⁵, the proposal of the Chief Justice of the Delhi High Court to give a higher scale of pay to Assistant Registrars was rejected by the Union of India.

The Supreme Court held that independence of the High Court is an essential feature for working of the democratic form of government in the country. An absolute control, therefore, has been vested in the High Court over its staff which would be free from interference from the Government subject of course to the limitations imposed by Article 229 of the Constitution of India.

However, while exercising such a power, the Chief Justice of the High Court would only be bound by the limitation contained in clause (2) of Article 229 of the Constitution of India and the proviso appended thereto. Approval of the President/Governor of the State is, thus, required to be obtained in relation to the rules containing provisions as regards salary, allowances, leave or promotion.

The Supreme Court stated that it is trite that such approval should ordinarily be granted as a matter of course. According to the Supreme Court, these suggestions in no unmistakable terms suggest that it is the primary duty of the Union of India or the State concerned normally to accept the suggestion made by a holder of a high office like a Chief Justice of a High Court and differ with his recommendations only in exceptional cases; the reason for differing with the opinion of the holder of such high office must be cogent and sufficient; even in the case of such difference of opinion, the authorities must discuss amongst themselves and try to iron out the differences.

⁵ (2004) 2 SCC 150

In that case, the Supreme Court found fault with the Union of India for not following this course of action.

In paragraph-48 of the said judgment, it went on to observe that it is not always helpful to raise the question of financial implications vis-à-vis the effect of grant of a particular scale of pay to the officers of the High Court on the ground that the same would have adverse effect on the other employees of the State. Scale of pay is fixed on certain norms and one of them being the quantum of work undertaken by the officers concerned as well as the extent of efficiency, integrity etc. required to be maintained by the holder of such office.

In paragraph-49 of the said judgment it was further stated that though matters as regards fixation of scale of pay of the officers working in the different High Courts must either be examined by an expert body like the Pay Commission or any other body, in the absence of constitution of any such expert body, the High Court itself is to undertake the task keeping in view the special constitutional provisions existing in this behalf in terms of Article 229 of the Constitution of India.

It, however, stated that the High Court should not ordinarily issue a writ of or in the nature of mandamus and ought to refer the matter back to the Central/State Government with suitable directions pointing out the irrelevant factors which are required to be excluded in taking the decision and the relevant factors which are required to be considered therefor and the statutory duties should be allowed to be performed by the statutory authorities at the first instance.

In the event, however, the Chief Justice of the High Court and the State are not ad idem, the matter should be discussed and an effort should be made to arrive at a consensus.

According to the Supreme Court, only in exceptional cases, High Court may interfere on the judicial side, but ordinarily it would not do so. Even if an occasion arises for the High Court to interfere on its judicial side, jurisdiction of the High Court should be exercised with care and circumspection.

28. The above principles were again reiterated by the Supreme Court recently in the case of *State of Rajasthan and others v. Ramesh Chandra Mundra and others*⁶ and it was held as under:

"21. It seems to us that the proviso to Article 229(2) (as also Article 146), does not reflect an architecture of hierarchy. We think that the correct constitutional approach is one of comity between different institutions working under the Constitution. The emphasis is not on the supremacy of one institution or demarcating the boundaries of the other. It is about ensuring institutional integrity of one while respecting the functional domain of the other. These provisions are meant to facilitate a dialogue of governance between high constitutional functionaries. A healthy dialogue, perhaps, even a debate is necessary for an efficient constitutional polity. The constitutional vision is not to draw "lakshman rekhas" between constitutional functionaries; its command is for the constitutional functionaries to efficiently coordinate to best achieve constitutional goals. It is this constitutional essence that was ignored when the request of the learned Chief Justice was not even placed before the Governor.

xxx

xxx

xxx

⁶ (2020) 20 SCC 163

28. *The scheme of Article 229 of the Constitution of India obviously requires a joint consideration of the proposal which the Chief Justice may make in regard to appointments, conditions of services, etc. in accordance with the Rules. Undoubtedly, if the Chief Justice takes a decision which has financial implications and that decision cannot be questioned by any authority, the financial implications which such decision may have imposed, should receive due consideration at the hands of the State Government and eventually the Governor.*"

In that case, the Chief Justice of the Rajasthan High Court had found it necessary to upgrade 16 posts of Private Secretaries as Senior Private Secretaries, but the Government of Rajasthan did not accord sanction.

The Supreme Court found fault with the State Government for not acting in accordance with the spirit and the letters of the Constitution of India. It set aside the decision of the State Government not accepting the proposal of the Chief Justice, and remanded the matter back to the State Government for appropriate consideration.

It also permitted the State Government to hold a meeting with the officers concerned of the Rajasthan High Court as may be appropriate for resolving the issue.

29. Keeping in mind the principles laid down in the above decisions, we shall now consider the facts of this case.

30. In the instant case, the Chief Justice of the High Court of Tripura had proposed for grant of ACP to Superintendents and Assistant Registrars, who had continued in the same post for period of 5(five) years. The number of such officials is not very large and, therefore, the financial implications of acceptance of the said proposal possibly may not be high.

31. Even under the Rule 12 of the Tripura State Civil Services (Revised Pay) Rules, 2017, for its own employees, the State of Tripura had provided for ACP benefit- employees in Level 1 to 13 of the Pay matrix of 3 financial upgradations.

The first one- on completion of 10 years of continuous and satisfactory service, second one - after another 7 years and the third one - after another 8 years of continuous and satisfactory service. So it is giving its employees the ACP benefit 3 times in their service though they are numerically much more than a few hundred.

32. In contrast, if the then Chief Justice, keeping in mind, the quantum of work undertaken by the officers concerned as well as the extent of efficiency, integrity etc. required to be maintained by the holder of such office, proposed a *single* upgradation/ACP benefit to Asst. Registrars and Superintendents on completion of 5 years, the respondents ought to have respected the said decision particularly since the number of such beneficiaries would be very few.

33. Admittedly, no Pay Commission has been constituted by the State Government and functioning as on date or since 2022 when the issue had come up for consideration before the Chief Justice of the High Court of Tripura.

34. As held in the judgment of the *S.B. Vohra and others* (5 supra), in the absence of constitution of a Pay Commission, the High Court itself can undertake the task of fixation of scale of pay of officers or grant of ACP keeping in view the special constitutional provisions existing in this behalf in terms of Article 229 of the Constitution of India.

35. The employees of the High Court having been appointed by the Chief Justice in exercise of his powers under Art.229, need not necessarily be held bound by the Tripura State Civil Services (Revised Pay) Rules,2017 because the High Court of Tripura Services (Appointment, Conditions and Service and Conduct) Rules, 2014 also governs their service conditions and states in Rule 16 states as under:

“ Rule 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.....” (emphasis supplied)

The above Rule thus empowers the Chief Justice to vary the pay and allowances and grant benefits such as ACP beyond those granted by the State Government to its employees though subject to approval of the Governor.

36. More importantly, in view of clause (2) of Article 229 of the Constitution of India, such a proposal for grant of ACP to petitioners made by the Chief Justice, in view of the financial implications, would require the approval of the Governor of the State.

37. It appears that the proposal made by the Chief Justice of the High Court of Tripura for grant of ACP to petitioners through the Registry of the said High Court was only looked at, in the instant case, by the Finance

Department of the State Government and was never placed before the Council of Ministers or before His Excellency, the Governor of the State of Tripura.

38. As held in the judgment in **Ramesh Chand Paliwal and another** (4 supra), the words "*requiring the approval of the Governor*" mean the *approval of the State Government*, i.e. the Council of Ministers, and not just the Finance Department of the State of Tripura.

39. There was no dialogue between the State Government and the Chief Justice of the High Court on this aspect and the request of the Chief Justice was not even placed before the Governor, which was the same situation criticized by the Supreme Court in the judgment in **Ramesh Chandra Mundra and others** (6 supra).

40. The Respondents No. 1 and 2 (Finance Department of the State of Tripura) had ignored the Constitutional principles set out in the above referred precedents of the Supreme Court.

41. In fact in the W.P.(C) No.364 of 2021 filed by the Private Secretaries seeking ACP, there is reference to W.P.(C).No.611 of 2019 earlier filed by them which had been disposed of on 2.9.2019 holding that State Government had not acted properly in considering the claim of the petitioners therein, that there was a procedural impropriety, and the respondents have to resubmit the proposed "Amendment Rule" for concurrence of the Governor through the Law department within one week from that date, and the Law department shall take utmost steps for obtaining the concurrence of the Governor within 6 weeks thereafter, and if necessary, a dialogue at the highest level may take place.

42. During the pendency of the W.P.(C) No.364 of 2021, the final order dt. 27.5.2022 of the learned Single Judge records that Government Advocate produced records showing that the proposal of the High Court of Tripura, had been approved in *toto* by the Council of Ministers, without any change. Thereafter the High Court of Tripura Services (Appointment, Conditions of Service and Conduct) (6th Amendment) Rules, 2022 were notified vide notification No.F.3(35)-HC/2022/2606 dt.28.1.2022 granting the benefit of ACP to the Private Secretaries after completion of 5 years of continuous service.

43. As noted above, all the petitioners are seeking parity with the Private Secretaries-I who have already been given the said benefit.

44. In our opinion, the respondents No.1 and 2 has not considered the issue in accordance with the spirit and the letter of the Constitution of India as was observed in the above precedents and there has been a grave procedural impropriety on their part.

45. Ordinarily, such proposals made by the Chief Justice should be approved by the State Government i.e. the Council of Ministers, and then it should be placed before His Excellency the Governor of the State.

46. Consequently, we hold that the direction in the decision dt.27.05.2025 of the Respondents No.1 and 2 (Finance Department of the State of Tripura) to the High Court to follow Rule 12 of the Tripura State Civil Services (Revised Pay) Rules, 2017 is not in accordance with the above principles of law; and the respondents No.1 and 2 cannot insist that High Court employees be governed by the said Rules ignoring Article 229 of the Constitution of India and Rule 16(1) of the High Court of Tripura Services

(Appointment, Conditions of Service and Conduct) Rules, 2014 extracted above.

47. Accordingly, the Writ Petition is allowed; and the U.O. No.149 FIN (Est-II)/2025, dt.27.05.2025 of respondents No.1 and 2, as communicated by the respondent No.3, in his letter dt.02.06.2025, and also the letter dt.2.6.2025 of respondent no.3, are both set aside. The matter is remitted back to the State Government to follow the norms as set out above and place the matter before His Excellency, the Governor for the State of Tripura after consideration of the proposal of the Chief Justice in the Council of Ministers.

48. This exercise shall be done within 3(three) months from the date of this order.

49. The Writ Petition is allowed to the above extent.

50. Pending application(s), if any, also stands disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

Pulak