

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.73/2023

Sri Manik Debbarma, Age-42 years, S/O-Lt. Narayan Debbarma, Resident of Vill.-South Kenania, P.O.- Konaban, P.S.- Madhupur, Bishalgarh, District-Sepahijala, Pin-799102.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, To be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN-799010.

2. The Director of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, PIN-799001.

3. Sri Rabinson Debbarma, UDC, Presently posted at Manikyanagar High School, Rukia, Boxnagar, District - Sepahijala, Tripura, PIN-799102, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

4. Sri Bitu Jamatia, UDC, Presently posted at Kakraban Girls High School, Gomati District, Tripura, PIN-799105, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

5. Sri Lalremruata Darlong, UDC, Presently posted Dhanbilash H.S. School, Kailashahar, Unakoti Tripura, PIN-799280, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

6. Sri Victor Darlong, UDC, Presently posted at Jarailtali H.S. School, Kailashahar, Unakoti District, Tripura, PIN-799279, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

.....Respondent(s).

Along with

WP(C) No.74/2023

Smt. Jesmine Debbarma, Age-30 years, D/O-Lt. Gopajoy Debbarma, Resident of Village-Mohanpur NIT, near ABC Bricks Company, Dhundarai Para, Majlispur, Tripura, Pin-799035.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, To be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN-799010.

2. The Director of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, PIN-799001.

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4. Sri Lalremruata Darlong, UDC, Presently posted Dhanbilash H.S. School, Kailashahar, Unakoti Tripura, PIN-799280, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

5. Sri Victor Darlong, UDC, Presently posted at Jarailtali H.S. School, Kailashahar, Unakoti District, Tripura, PIN-799279, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

.....Respondent(s).

WP(C) No.75/2023

Sri Nirmal Debbarma, Age-39 years, S/O-Lt. Ramani Mohan Debbarma, Resident of Vill.-Karaimura Ward No.3, Amtali, Bishramganj, District-Sepahijala, Tripura, Pin-799103.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, To be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN-799010.

2. The Director of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, PIN-799001.

3. Sri Rabinson Debbarma, UDC, Presently posted at Manikyanagar High School, Rukia, Boxnagar, District - Sepahijala, Tripura, PIN-799102, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

4. Sri Bitu Jamatia, UDC, Presently posted at Kakraban Girls High School, Gomati District, Tripura, PIN-799105, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

5. Sri Lalremruata Darlong, UDC, Presently posted Dhanbilash H.S. School, Kailashahar, Unakoti Tripura, PIN-799280, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

6. Sri Victor Darlong, UDC, Presently posted at Jarailtali H.S. School, Kailashahar, Unakoti District, Tripura, PIN-799279, Notice to be served through the Director of Secondary Education, Govt. of Tripura.

.....Respondent(s).

WP(C) No.76/2023

Sri Jason Debbarma, Age-32 years, S/O-Khirod Debbarma, Resident of Vill.-Samatalgolirai, P.O.- Golirai Bari, Madhya Pathalia, Sepahijala, District-Sepahijala, Tripura.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, To be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Secretariat Complex, Kunjaban, Agartala, West Tripura, PIN-799010.
 2. The Director of Secondary Education, Govt. of Tripura, Office Lane, Agartala, West Tripura, PIN-799001.
 3. Sri Rabinson Debbarma, UDC, Presently posted at Manikyanagar High School, Rukia, Boxnagar, District - Sepahijala, Tripura, PIN-799102, Notice to be served through the Director of Secondary Education, Govt. of Tripura.
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 6. Sri Victor Darlong, UDC, Presently posted at Jarailtali H.S. School, Kailashahar, Unakoti District, Tripura, PIN-799279, Notice to be served through the Director of Secondary Education, Govt. of Tripura.
- Respondent(s).

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,
Mr. D. Paul, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment: **04th July, 2023.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel appearing for the petitioners and Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. All the writ petitioners who are working on the post of Lower Division Clerk (LDC, for short) in the Secondary Education Department raise

common grievance of promotion to the post of Upper Division Clerk (UDC, for short) with effect from the date which is prior to the date on which certain juniors, the private respondents herein, got promoted to the post of UDC superseding the petitioners. The private respondents have been granted promotion to the post of UDC vide notification dated 05.08.2022 and are said to be junior to the petitioners. The promotions have been granted on the basis of a seniority list dated 25.02.2020 contained at Annexure-A, Page-20 of WP(C) No.73 of 2023 from which the relevant facts are being taken for convenience sake.

3. The seniority list of 25.02.2020 has been issued by the Directorate of Higher Education, Government of Tripura. Petitioner's seniority has been restored in the fresh seniority list published vide memorandum No.F.12(212)-DHE/CONF/2023-24/1776(10) dated 30.06.2023 as stated by the learned senior counsel for the petitioners. The relevant details of date of appointment, date of joining and date of regularization of the individual petitioners are as under:

Sl. No.	Name of petitioner	Date of appointment as LDC	Date of joining	Date of regularization
1.	Sri Manik Debbarma	22.01.2015	02.02.2015	02.02.2020
2.	Smt. Jesmine Debbarma	04.02.2017	13.02.2017	13.02.2022
3.	Sri Nirmal Debbarma	28.02.2014	05.03.2014	05.03.2019
4.	Sri Jason Debbarma	03.06.2016	22.06.2016	22.06.2021

4. The private respondents have been appointed on subsequent dates and are said to be junior to the petitioners as stated at paragraph-8 of the writ petitions. The date of joining of the individual private respondents as per the final seniority list dated 25.02.2020 are as under:

Sl. No.	Name of the private respondents	Date of joining on the post of LDC
1.	Sri Rabinson Debbarma	26.08.2016
2.	Sri Bitu Jamatia	15.02.2017
3.	Sri Lalremruata Darlong	08.03.2017
4.	Sri Victor Darlong	09.03.2017

5. Petitioner had represented against their supersession vide representation dated 10.08.2022 and thereafter they have approached this Court as no action was being taken. In WP(C) No.73 of 2023, WP(C) No.75 of 2023 and WP(C) No.76 of 2023, notices have been delivered upon all the respondents except respondent No.3. In WP(C) No.74 of 2023, notices have been delivered upon all the respondents. In spite of service of notice, the private respondents have not appeared. Only the State respondents No.1 and 2 have appeared and filed their counter affidavit.

6. The respondents-State in their counter affidavit have taken a common stand that they had not received any rectification request from their line department, i.e. Secondary Education Department or Social Welfare Department to the draft seniority list of 31.03.2018 published on 12.04.2019. As such, the promotional exercise was undertaken from the seniority list dated 25.02.2020.

It is submitted that the petitioners did not object at the relevant point of time when the final seniority list was being finalized but they have approached the respondent-department only after issuance of the notification of promotion on 05.08.2022. On consideration of the representations of the petitioners, the final seniority list dated 30.06.2023 has restored their position to the correct place. As such, the grievances of the petitioners regarding

inclusion of their names in the seniority list of 25.02.2020 and consequent promotion thereof from the date of promotion of the private respondents said to be junior to them have been raised belatedly.

It is, therefore, submitted that now since the petitioners' seniority have been restored by the fresh seniority list dated 30.06.2023, petitioners need not agitate their grievances any further.

7. Learned senior counsel for the petitioners submits that if injustice has been caused by promoting the private respondents who were junior to the petitioners to the post of UDC, the cause of action of the petitioners still remain. Therefore, the respondent-department may be directed to consider the representation of the petitioner in accordance with law relating to rectification of the seniority list dated 25.02.2020 and consequent promotion to which the petitioners may be entitled from the date on which their juniors have been promoted.

8. I have considered the submissions of learned counsel for the parties in the limited canvas of facts as are placed from record. The relevant facts of the individual petitioners have been referred to in the preceding paragraphs of this order. It appears that by issuance of the notification dated 30.06.2023 the petitioners have been placed at the correct seniority position with which they are satisfied. Their grievances relate to the notification of promotion of private respondents dated 05.08.2022 as in the seniority list dated 25.02.2020 petitioners' names were not included though it is claimed that petitioners having been appointed earlier to them on the post of LDC and their names ought to have been placed at the correct position in the seniority list.

9. It further appears that the Nodal Department, i.e. the Education Department has taken a plea that they did not receive any request for rectification of the seniority position from the line department, i.e. the Secondary Education Department. As such, the seniority list was finalized on 25.02.2020 from which date the promotional exercise seems to have been undertaken. It is not clear from the pleadings and enclosed annexures whether the petitioners have duly objected to the draft seniority list at the relevant point of time before publication of the final seniority list. These facts can be inquired from the relevant official records which are not indisputable.

10. As such, at this stage, this Court does not consider it proper to deal with this issue of correction of seniority list dated 25.02.2020 in which the petitioners' names were not included. Since the respondent-department has rectified the seniority list by incorporating the names of the petitioners in the fresh seniority list dated 30.06.2023, they would consider the claim of the petitioners for inclusion of their names in the seniority list dated 25.02.2020 after examining the relevant records and only if the contentions of the petitioners are found to be correct. Depending upon such decision, if it is found that petitioners' names were left out from the seniority list dated 25.02.2020 without any fault of theirs and despite objections or representations timely made, the respondent-department would consider inclusion of their names in the said seniority list.

11. Needless to say, if such exercise entails the inclusion of the names of the petitioners in the seniority list of 25.02.2020, the department would consider the claim of the petitioners for promotion to the post of UDC

thereafter in accordance with law from the dates from which certain persons who were said to be junior to them have been promoted. Since this exercise would entail detailed verification of relevant records from different line offices and the claim of the petitioners, the respondents would take a decision on the claim of the petitioners in accordance with law within a reasonable time, preferably within 16(sixteen) weeks from the date of receipt of the copy of this order.

12. With the above observations and directions, the writ petitions are disposed of.

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

(APARESH KUMAR SINGH), CJ