

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.80 of 2023

1. Sri. Sudhir Debbarma, Son of Sri. Hemanta Debbarma, Resident of Vill and P.O- Naba Santi Ganj Bazar, P.S- Takar Jala, District- Sepahijala Tripura, PIN - 799102.

-----Petitioner(s)

VS

1. Union of India, represented by its Secretary, having his/her office at Ministry of Home Affairs, North Block, Central Secretariat, New Delhi - 110001.

2. Staff Selection Commission (SSC), represented by his/her Chairman, having his office at Staff Selection Commission, Block No-12, 4th Floor, CGO Complex, Lodhi Road, New Delhi- 110003.

3. Director General of Border Security Force (B.S.F), having his/her office at, CGO Complex, Lodhi Road, New Delhi- 110003.

4. Director General of Central Industrial Security Force (CISF), having his/her office at, Block No.13, CGO Complex, Lodhi Road, New Delhi- 110003.

5. Director General of Central Reserve Police Force(CRPF), having his/her office at, Block No.-1, C.G.O. Complex, Lodhi Road, New Delhi-110003, INDIA.

-----Respondent(s)

For Petitioner(s) : Mr. M. Debnath, Advocate.

For Respondent(s) : Mr. B. Majumder, Deputy SGI.

Date of Judgment & Order: 07.07.2023

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

JUDGMENT AND ORDER (ORAL)

Heard learned counsel for the parties.

2. Petitioner, a Scheduled Tribes (ST, for short) candidate, participated in a recruitment exercise conducted by the Staff Selection Commission (SSC, for short) dated 21.07.2018 and appeared in the written examination, Physical Standard Test (PST, for short), Physical Efficiency Test (PET, for short) and medical examination. However, since his name was not reflected in the merit list of Constables in Central Armed Police

Forces (CAPFs, for short) dated 21.01.2021, despite having higher marks, he approached this Court.

3. Upon notice respondents No. 1 & 5 have filed their counter affidavit and respondent No.2-SSC has also filed counter affidavit. The affidavit of respondent No.2-SSC makes the factual and legal position clear as regards the claim of the petitioner. It is stated that though petitioner was considered in all his preferred CAPFs, due to less marks in his own category i.e. ST and being overage in UR category, he was not selected in either of the said categories. The date of birth of the petitioner is 02.01.1991 i.e. he was born earlier than 02.08.1995 and had, therefore, availed age-relaxation available to ST candidates. Hence, he was not considered for UR vacancies as per the extant rule. For a reserved candidate(s) to be eligible for UR vacancies, he/she should fulfill the age limit i.e. 18 to 23 years, as on 01.08.2018. Details of cut-off marks of male candidates of Tripura are furnish under paragraph-4 of the counter affidavit filed by the respondent No.2, which is extracted hereunder:

Force	Area	Cat	Cut-off
BSF (A)	B	ST	38.98557
BSF (A)	G	ST	44.57504
CISF (B)	G	ST	38.82679
CRPF (C)	G	ST	37.42682
SSB (D)	G	ST	35.98584
ITBP (E)	G	ST	37.25321
AR (F)	G	ST	44.08125

4. It is further stated by them that all the vacancies earmarked for the State of Tripura in respect of all categories viz. SC, ST, OBC & UR have been filled (except for 2 UR Border vacancies). The 2(two) vacancies earmarked for ESM Candidates in UR category could not be filled up due to unavailability of eligible ESM/UR category candidate.

5. Petitioner not being an ex-servicemen cannot be considered in the 2(two) vacancies left for ESM Candidates in UR category. Respondents have given the details of the vacancies as given in the final result write-up dated 21.01.2021 under paragraph-6 of the counter affidavit filed by the respondent No.2, which is also extracted hereunder:

Cat	Vacancies	Filled	Unfilled
SC	74	74	0
ST	195	195	0
OBC	9	9	0
UR	226	224	2
ESM	62	0	62
Total	566	502	64

6. It is further submitted that actual vacancies for the State of Tripura were 504 i.e. total of vacancies indicated against UR, OBC, SC & ST category. The 62 vacancies shown against ESM category are 'horizontal vacancies' or interlocking reservation as stated in DoPT's OM No.36012/58/92-Estt.(SCT) dated 1st December, 1994, which is reproduced as under:

“Para 2 “Horizontal reservations cut across vertical reservation (in what is called inter-locking reservation) and the person selected against these reservation has to be placed in the appropriate category, that is to say, if he belongs to SC category he will be placed in that quota by making necessary adjustment and similarly if he belongs to open competition (OC) category he will be placed in that category by making necessary adjustment. Even after providing for these horizontal reservations, the percentage of reservation in favour of backward class of citizens should remain the same.

Para 3 “in the light of the above said observations of the Supreme Court, it has been decided that the percentage of reservation for ex-servicemen should remain the same as at present.

An ex-servicemen selected under the reservation provided for them should be placed in the appropriate category to viz. SC/ST/OBC/General category depending upon the category to which he belongs. For example, an Ex-Servicemen who is a SC will be counted against the SC reservation point, an Ex-Servicemen who is ST or OBC will be counted against ST/OBC reservation point and the Ex-Servicemen who belongs to General category will be slotted in the General category vacancy point in the respective reservation roster”.

7. Learned counsel for the respondent No.2 has also referred to the statement made at paragraph-7 of the counter-affidavit filed by them and stated that the petitioner availed age relaxation as per point 4(A) of the Notice

of the Exam and could not be considered against UR category since he was overage as UR candidate. Further, the score of the candidate is 35.8637 and the marks of last selected candidate in ST category & UR category are 35.98584 & 39.32135 respectively. Therefore, it is evident that he does not clear any of the cut-off-marks.

8. Learned counsel for the respondent No.2 submits that the Notice of Examination was uploaded on the website of the Commission on 25.07.2018. Last date for receipt of online applications was 30.09.2018. As per the Notice of Examination, the recruitment process comprised of (i) Computer Based Examination, (ii) Physical Efficiency Test and Physical Standard Test (PET/PST) and (iii) Medical Examination. It is also stated that 52.4 lakh candidates applied for the said examination. The Computer Based Examination was conducted from 11.02.2019 to 11.03.2019 and the results of the Computer Based Examination were declared on 20.06.2019 and 12.09.2019 wherein 5,35,169 candidates including male and female were qualified for the next stage i.e. PET/PST. Thereafter, PET/PST tests were conducted from 13.08.2019 to 05.10.2019 and from 03.02.2020 to 20.02.2020. Results were declared on 17.12.2019 and 04.03.2020 wherein a total of 1,52,226 candidates including male and female were qualified for the next stage i.e. the Medical Examination. Detailed Medical Examinations (DME) was conducted from 09.01.2020 to 13.02.2020 and 24.08.2020 to 12.09.2020 and Review Medical Examination (RME) was conducted from 14.09.2020 to 10.11.2020. In the medical examination, 1,09,552 candidates were qualified. Based thereupon the final results were declared on 21.01.2021 and 28.01.2021 wherein a total of 55,912 candidates have been provisionally recommended for appointment. For the State of Tripura, out of the 504

available vacancies, 2(two) vacancies belonging to UR candidates from the Border District remained unfilled due to unavailability of suitable candidates.

9. Based on this specific assertions, learned counsel for the respondents submits that petitioner has not only approached this Court after more than two years of completion of the recruitment process but even on merits he has scored lesser marks in his category i.e. ST category for staking any legal right or fundamental right for appointment as a Constable under the CRPFs in the State of Tripura.

10. I have considered the submissions of the learned counsel for the parties and taken note of the specific stand of the respondents in respect of the claim of the petitioner. Petitioner has approached this Court after 2(two) years of the declaration of results. Apart from that, on merits also petitioner has not been able to score higher marks in the ST category from which he appeared after availing age relaxation for being considered for appointment as Constable under CRPFs. Petitioner could not be considered in the UR category as he would be over-aged having availed age relaxation for the ST category. Moreover, out of 504 posts except 2(two) posts for ESM Candidates in UR category, rest of them have already fulfilled after a detailed recruitment process. As such, petitioner has not been able to make out any legal right for grant of relief as prayed for.

11. Accordingly, the instant petition, being devoid of merit, is dismissed.

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

(APARESH KUMAR SINGH), CJ