

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.150/2022

Sri Sankar Das, S/O. Late Anil Das, Resident of village-Bhati Abhoynagar,
P.O. Agartala, P.S.-West Agartala, Pin-799001, District-West Tripura.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, represented by the Principal Secretary to the Government of Tripura, Department of Transport, having his office at New Secretariat Complex, Gorkhabasti, P.O.-New Secretariat, P.S. New Capital Complex, Sub-Division-Sadar, District-West Tripura, PIN-799010.

2. Tripura Road Transport Corporation represented by its Managing Director, having his office at TRTC Bhavan, Krishnanagar, P.O.-Agartala, P.S. East Agartala, Sub-Division-Sadar, District-West Tripura, PIN-799001.

3. Mr. Haripada Debnath, Presently working as Asst. Mechanic in MBB International Airport Parking area under the TRTC Head Office, Krishnanagar, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

4. Mr. Raju Debnath, Presently working as Asst. Mechanic and posted at Krishnanagar Head Office, TRTC, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

5. Mr. Biswajit Sarkar, Presently working as Asst. Mechanic and posted at Krishnanagar Head Office, TRTC, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

6. Md. Ashu Mia, Presently working as Asst. Mechanic and posted at Udaipur Station, TRTC, Rajarbag, P.O. and P.S.- R.K. Pur, Pin-799012 District-Gomoti Tripura.

7. Mr. Rajib Nandi, Presently working as Asst. Mechanic and posted at Krishnanagar Head Office, TRTC, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

8. Mr. Krishnakumar Das, Presently working as Asst. Mechanic and posted at Krishnanagar Head Office, TRTC, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

.....Respondent(s).

For Petitioner(s)	: Mr. Kushal Deb, Advocate.
For Respondent(s)	: Mr. Mangal Debbarma, Addl. G.A., Mr. K.C. Bhattacharjee, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

27/06/2023

Heard Mr. Kushal Deb, learned counsel appearing for the petitioner and Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the respondent-State and Mr. K.C. Bhattacharjee, learned counsel appearing for the respondent-TRTC.

2. Writ petition was preferred with a prayer to rectify the order of ad-hoc promotion dated 20.12.2021 as per Tripura Road Transport Corporation (Officers and other Employees) Recruitment Regulations, 1986. Petitioner also prayed for a direction to allow him to join in the appropriate ad-hoc promotional post, i.e. Assistant Mechanic with retrospective effect from 10.12.2021 with all benefits. Considering the case of the parties, based on the pleadings on record, this Court had vide order dated 01.05.2023 directed the respondents to file affidavit giving categorical answer to the contentions raised by the petitioner as indicated in the order passed on that date. As such, the order dated 01.05.2023 is extracted hereunder:

"The petitioner has filed an amended writ petition pursuant to the order dated 18th July, 2022. In the amended writ petition at paragraph 5(c) the petitioner has enclosed the office order No.F.4(40)- TRTC/ESTT/88/VOL-I/1312, dated 20.12.2021 issued by the Managing Director, Tripura Road Transport Corporation with averments made at paragraph 5 that persons of different streams such as Peon and Cleaner in Group-D have been promoted to mechanical stream in Group-C as Asst. Mechanic whereas the petitioner who was working in Group-D as Mechanical Helper from his date of joining i.e. 11.04.2013 has been offered a promotional post of Security Guard in Group-C which defies reason. The persons who have been granted promotion in a different stream to Grade-C from the original cadre to which they belong are also impleaded as private respondents. The counter-affidavit of the Managing Director, TRTC fails to make specific reply to the aforesaid contention of the petitioner. Learned counsel for the State has submitted that in view of the interim order passed by the Apex Court *ad hoc* promotions have been granted. Petitioners has been offered a Group-C promotional post of Security Guard and alternatively given an option to remain in Group-D post. The petitioner has joined the Group-D post at Udaipur and accepted the offer.

However, the specific contention of the petitioner that certain employees have been granted *ad hoc* promotion from a different cadre to Mechanical cadre in Group-C ignoring the claim of the petitioner who was already working as Mechanical Helper in Group-D, has not been properly answered in the counter-affidavit of the respondents.

Learned counsel for the State prays for and is allowed further two weeks time to file an affidavit giving categorical answer to the contentions raised by the petitioner as indicated in the order today. Failure to make proper replies may require the presence of the Managing Director, Tripura Road Transport Corporation on the next date.

List the matter on *1st June, 2023.*"

3. An additional affidavit has been filed by the respondents on 14.06.2023, *inter alia*, making the following statements:

"4. That, I do not admit anything made in the petition except those which are matters of record. The petitioner has to substantiate those which appear to be contradictory or inconsistent with record.

5. That, by order dated 01/05/2023 passed by the Hon'ble High Court of Tripura, we have examined the entire file with the case record, where in it reveals that, earlier, there was no promotion post fallen vacant in the post of Group-C. However, after retirement of some employees under Group-C there would be no bar for getting promotion to the petitioner Sri Sankar Das who is at present serving in the post of Group-D."

4. Mr. Kushal Deb, learned counsel for the petitioner, has objected to the stand raised by the respondents to the additional affidavit and insisted upon rectification of the order dated 20.12.2021 whereby certain

persons from other streams were offered Group-C promotional post in Mechanical stream.

5. Respondents have, however, now categorically stated that earlier there was no promotional post vacant in Group-C of Assistant Mechanic and all promotional posts were on ad-hoc basis. However, after retirement of some employees under Group-C, there would be no bar for getting promotion to the petitioner who is presently serving in Group-D post. The averments made in the additional affidavit have not been rebutted. The statements made on affidavit by the respondents, therefore, reveal that any promotions given to Group-D employees from other streams in the absence of vacant post were only ad-hoc. It is only now that vacancies have arisen in higher post of Assistant Mechanic, Group-C, to which petitioner can be considered for promotion. In that situation, even if the petitioner insists upon rectification of the order dated 20.12.2021, petitioner would not be able to get any effective relief in the absence of a vacant post of Assistant Mechanic in Group-C category from that day. Any regular promotion to the petitioner could be only against a vacant sanctioned post of Assistant Mechanic in Group-C category which is now available.

6. As such, this Court is inclined to modify the relief by directing the competent authority under the respondents to consider the case of the petitioner for promotion to the post of Assistant Mechanic in Group-C category from the present post of Mechanical Helper in Group-D which the petitioner is holding. Such consideration be made within a period of 6(six) weeks from the date of receipt of copy of the order and in accordance with law.

7. With the above observations and directions, the writ petition is disposed of.

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

(APARESH KUMAR SINGH), CJ

PULAK BANIK Date: 2023.06.28
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