

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.317 of 2022

Debasish Sarkar, S/o Late Samir Chandra Sarkar, resident of Shantipalli,
Charipara, P.O- Charipara, Agartala, P.S. Amtali, District – West Tripura,
Pin-799003.

.....Petitioner(s)

V E R S U S

1. The State of Tripura, represented to be represented by the Secretary,
GA(Printing & Stationery) Department, Govt. of Tripura, New Secretariat
Building, New Capital Complex, Agartala, West Tripura, Pin-799010.
2. The Director, G.A (Printing & Stationery) Department, Government of
Tripura, Bardowali, Agartala, West Tripura.

..... Respondent(s).

Along with
WP(C) No.318 of 2022

Sandip Roy, S/o Late Haripada Roy, resident of Hairmara, A.D. Nagar, P.O-
S.D. Mission, P.S.-A.D. Nagar, District – West Tripura, Pin-799003.

.....Petitioner(s)

V E R S U S

1. The State of Tripura, represented to be represented by the Secretary,
GA(Printing & Stationery) Department, Govt. of Tripura, New Secretariat
Building, New Capital Complex, Agartala, West Tripura, Pin-799010.
2. The Director, G.A (Printing & Stationery) Department, Government of
Tripura, Bardowali, Agartala, West Tripura.

..... Respondent(s).

For Petitioner(s)	: Mr. P. Roy Barman, Sr. Advocate, Mr. Kawsik Nath, Advocate.
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For Respondent(s)	: Mr. D. Bhattacharya, G.A., Ms. N.C. Saha, Advocate.
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Date of Judgment & Order: 05.07.2023

Whether Fit for Reporting: YES

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

JUDGMENT AND ORDER (ORAL)

Both WP(C) No.317 of 2022 and WP(C) No.318 of 2022 are being heard together and decided by the common judgment as both the writ petitions raise common grievances.

2. Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Kawsik Nath, learned counsel for the petitioner. Also heard Mr. D. Bhattacharya, Government Advocate assisted by Ms. N.C. Saha learned counsel for the respondents.

3. Sri Debasish Sarkar, petitioner, was appointed as Computer, Tripura Government Press of the GA(Printing and Stationery), Department, on 12.06.2001 while Sri Sandip Roy, petitioner, was appointed as Computer, Tripura Government Press of the GA(Printing and Stationery), Department on 09.02.2007. Pursuant thereto their joining was accepted vide order dated 19.06.2001 and 27.02.2007 respectively. Both the petitioners were having granted *ad hoc* promotion to the post of Senior Computer vide orders dated 16th February, 2022 [Annexure- 8 in WP(C) No.317 of 2022 and Annexure-5 in WP(C) No.318 of 2022]. One of the orders of promotion is extracted herein below:

“No.F.1(19)-GA(P&S)-PTG/2021/451-57
GOVERNMENT OF TRIPURA
GA(PRINTING AND STATIONERY) DEPARTMENT

Dated, Agartala, the 16th February, 2022.

O R D E R

On the recommendation of the Departmental Promotion Committee held on 13-01-2022 Shri Debasish Sarkar, Computer, Tripura Government Press of the GA (Printing and Stationery) Department, Government of Tripura is hereby appointed on promotion to the post of Senior Computer, Group-C (Technical) purely on ad-hoc basis as one time measure in the scale Pay Band Rs.5700-24000/- level-9 of Tripura State Pay Matrix, 2018 (Tripura State Civil Services (Revised pay)(First amendment) Rules-2018 by creation of 1(one)no. supernumerary post of Senior Computer as per point no.7 of the Notification No.F.2(24)-GA(P&T)/2021 dated 22-06-2021.

2. The said ad-hoc promotion is subject to the following conditions.

a). Appointment on promotion purely on ad-hoc basis subject to final outcome of the SLP pending before the Hon'ble Supreme Court of India.

b). The ad-hoc appointment on promotion shall not be treated as regular appointment on promotion.

c). No inter-se seniority list shall be determined/published in respect of this ad-hoc promotion.

d). When the directions become available, a review DPC may be held and the necessary adjustments be made in the promotion based upon the revised seniority list. In Case Shri Sarkar, appointed on ad-hoc promotion does not figure in the list approved by the review DPC he may be reverted to the post held by him earlier.

e). The pay etc shall be fixed as per normal rules. Shri Sarkar shall submit option for fixation of pay within 1(one) month from the date of joining to the post.

2. Shri Debasish Sarkar, Computer should join his duties on promotion immediately.”

Both the petitioners thereafter made representations vide Annexure –9 dated 21.02.2022 in WP(C) No.317 of 2022 and Annexure-6 dated 21.02.2022 in WP(C) No.318 of 2022 for reviewing their *ad hoc* promotion to the post of Senior Computer and promoting them as Head Computer.

4. Learned counsel for the petitioners has submitted that both the petitioners were senior in the year 2017 itself, as per Annexure-2 for being considered for promotion to the post of Head Computer as they had completed more than 16/12 years of service as is the requirement under the

Recruitment Rules for promotion to the post of Head Computer in the Tripura Government Press under the GA (Printing and Stationery) Department, Government of Tripura vide Annexure-3. The serial No.11 of the Schedule of Recruitment Rules provides as under:

11.	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made.	Promotion:- From the post of Sr. Computer having 5(five) years experience in the grade failing which from the post of Computer having 10(ten) years experience in the grade.
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5. Since petitioners had remain on the post of Computer for more than 10(ten) years, they were eligible for being promoted to the post of Head Computer. It is also their case that since 2017 the post of Head Computer was also vacant. Since their representations were not considered, they have approached this Court.

6. Mr. D. Bhattacharya, learned Government Advocate assisted by Ms. N.C. Saha, learned counsel have appeared for the State and filed counter-affidavit in which a common stand has been taken. Respondents have also relied upon the notification dated 22.06.2021 of GA(P&T) Department, Government of Tripura which is also known as the Promotion Policy of 2021. The relevant part of the said notification is extracted hereunder.

“8. It has also been decided by the Government to allow such appointment on *ad hoc* promotion as one time measure, following the below mentioned conditions:-

- (i) Appointment on Promotion may be allowed purely on ad-hoc basis subject to final outcome of the SLP pending before the Hon’ble Supreme Court of India.
- (ii) Ad-hoc appointment on promotion shall be considered keeping in view of the latest available seniority list of the

feeder post/ grade subject to condition that he/she is otherwise suitable & eligible for promotion.

- (iii) No inter-se seniority list shall be determined/ published in respect of these ad-hoc promotions.
- (iv) Benefit of the ad-hoc appointment on promotion shall be available to accommodate a candidate to the immediate next higher promotion post/ grade only and such benefit shall not be considered to accommodate the said candidate to multiple higher posts/ grade with prospective effect.
- (v) To create supernumerary posts, administrative Department shall assess the number of posts to be created to materialize the promotion as per above procedure and inform the total number of posts so determined to Finance Department. No, further concurrence of Finance Department is required.
- (vi) This ad-hoc appointment on promotion shall not be treated as regular appointment on promotion.
- (vii) The ad-hoc appointment on promotion as per guidelines illustrated above shall be started in the highest grade of a cadre/ service first. Due to such promotion, the resultant vacancies shall be added with the vacancies in the lower grade, and to be filled up subsequently.
- (viii) Regular DPC may be held based on the existing seniority list. However, while issuing the orders it should be stipulated that these promotions are provisional and subject to the final outcome of the S.L.P pending before the Hon'ble Supreme Court of India. Subsequently, when the directions become available, a review DPC may be held and the necessary adjustments be made in the promotions of officers based upon the revised seniority list. In case any of the officers/ candidate appointed on ad-hoc promotion do not figure in the list approved by the review DPC they may be reverted to the posts held by them earlier.

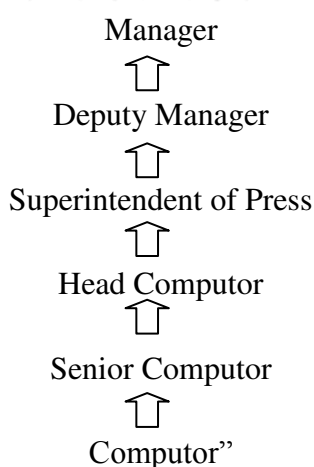
9. As the persons to be appointed on ad-hoc basis subject to final verdict if the Hon'ble Supreme Court in SLP(C) No.19765-19767 of 2015 are likely to hold such ad-hoc promotion posts for a period of more than 1(one) year, consultation with the TPSC is required, wherever the same is necessary, following the provisions of the TPSC (Exemption form Consultation) Regulations, 1973.

10. Relevant portion of the conditions as mentioned in Para-8 above shall invariably be incorporated while issuing the promotion order/ notification for appointment on ad-hoc promotion.”

7. Mr. D. Bhattacharya, learned Government Advocate for the State submits that as per Clause 8(iv) of the notification dated 22.06.2021

benefit of the ad-hoc appointment on promotion shall be available to accommodate a candidate to the immediate next higher promotion post/ grade only and such benefit shall not be considered to accommodate the said candidate to multiple higher posts/ grade with prospective effect. Petitioners were promoted to the post of Senior Computer on having served for 5(five) years in the grade of Computer as per the Recruitment Rules quoted above. After having accepted joining they cannot claim promotion to the next higher post of Head Computer relying upon Clause 8(vii) of the notification dated 22.06.2021. It is also submitted that the next higher promotion to the post of Head Computer would only be available after they have completed necessary experience in the grade of Senior Computer. Since the petitioners have already accepted joining on the post of Senior Computer, they are stopped from raising a claim for review of the promotion order to the next higher post of Head Computer. The hierarchy of the post of computer is also provided under para 9 of the counter affidavit which is as under:

“According to hierarchy the post of Computer is arranged as under



8. It is crystal clear there from the above that the post of Head Computer is not the highest post of Computer. The highest post of Manager is now physically occupied. For filling up the next highest post of Deputy Manager some administrative procedures are necessary to be

completed/followed which is also under process. The averment of the petitioners that if they declined to join in the post of Senior Computer for any reason then in that case they will not be considered for the benefit under MACPs as per ROP-2017 has also been denied at para 13 of the counter-affidavit in WP(C) No.317 of 2022. Therefore, it is submitted that petitioners do not have a legitimate expectation to be promoted to the next higher post of Head Computer immediately within one year of their joining.

9. I have considered the submission of the learned counsel for the parties and have taken note of the relevant material facts placed from the records. The guidelines which are framed by the Government of Tripura GA (P&T) Department dated 22.06.2021 for granting *ad hoc* promotion, in particular para-8(iv) thereof make it clear that benefit of the *ad hoc* appointment on promotion shall be available to accommodate a candidate to the immediate next higher promotion post/ grade only and such benefit shall not be considered to accommodate the said candidate to multiple higher posts/ grade with prospective effect. As regards the contention of the petitioner that clause 8(vi) of the notification dated 22.06.2021 thereof provides for promotion in the highest grade of a cadre/service first it would not apply to the case of the petitioners since the highest grade is Manager and not Head Computer. Moreover, the petitioners have accepted joining on the post of Senior Computer upon issuance of the order of promotion dated 16.02.2022. As per the Recruitment Rules extracted hereinabove 5(five) years experience on the post of Sr. Computer is required for promotion to the post of Head Computer and failing which it would be filled up from the post of Computer having 10(ten) years experience in the grade. The petitioners though contend that the post of Head Computer was vacant since 2017 and

they were eligible in terms of requisites seniority and experience, they have approached this Court only after acceptance of the promotion to the next higher post of Senior Computer. Under the Promotion Policy, 2021 multiple promotions in such manner is not permissible and more so when the petitioners have to complete the minimum number of years in the next higher grade of Senior Computer for being eligible to be promoted to the post of Head Computer. As such this Court does not find any merit in the instant writ petitions.

10. Learned counsel for the petitioner-Sri Debasish Sarkar refers to the prayer made at para 20(iv) and submits that the respondents may be directed to give honorarium to the petitioners for holding full charge duty of the higher post i.e. Head Computer for more than three months.

11. The competent authority under the respondent department is required to address the claim of the petitioner as regards the instant prayer in accordance with law.

12. However, for the reasons recorded hereinabove and the facts and circumstances noted above this Court does not find any merit in the instant writ petitions. Accordingly, the writ petitions are dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ