

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No. 670 of 2021

1. Smt. Ila Deb

W/o Sri Habul Sarkar of Badharghat
near BOC PS Amtali, Agartala,
West Tripura, 56 years

2. Sri Sourav Dasgupta

S/o Lt Santosh Lal Dasgupta of
Ramnagar Road No.4, PS-West
Agartala, West Tripura, 58 years

3. Sri Partha Sarathi Paul

S/o Lt. Ashutosh Paul of Palace
Compound, near Sale Tex Office
PS-East Agartala, West Tripura

4. Sri Pranab Sengupta

S/o Lt. Tegendranath Sengupta of
Office Tilla Nutan Palli
PS- Bishalgarh, Sepahijala
Sepahijala District, 59 years

5. Sri Rathindra Ch. Ghosh

S/o Lt. Nibaran Chandra Ghosh of
A.D. Nagar Police Quarters Complex,
PS, A.D. Nagar, West Tripura,
59 years

6. Sri Dhiraj Laskar

S/o Lt. Manindra Chandra Laskar of
Police Quarter Lane, PS- A.D. Nagar,
Agartala, West Tripura, 56 years

7. Sri Pradyut Ch. Datta

S/o Sri Pramesh Ch. Datta of
Natun Palli PS- Dharmanagar, North
Tripura, 59 years

8. Sri Swapan Ch. Das

S/o Lt. Kshitish Chandra Das of
Gajaria S.D Mission PS- A.D. Nagar,
Agartala West Tripura, 57 years

9. Sri Benu Lal Kar

S/o Lt. Shital Chandra Kar of
Ramnagar Road No.4 (Near Sankar
Chowmuhani) PS- West Agartala, West
Tripura, 58 years

10. Sri Debasish Banerjee

S/o Lt. Debabrata Banerjee of Krishnanagar,

Kadamtali PS- West Agartala West Tripura,
58 years

11. Sri Shyamal Chakraborty

S/o Lt. Haran Chakraborty of A.D. Nagar
Road No.1 PS- A.D. Nagar, Agartala,
West Tripura, 57 years

12. Sri Kamal Kar Chowdhury

S/o Lt. Naresh Kar Chowdhury of
Ramnagar Road No.2, PS-West Agartala,
Agartala, West Tripura, 58 years

13. Sri Ranendu Kishore Bhattacharjee

S/o Lt. Rabindra Kumar Bhattacharjee,
1/A By- Lane Srinagar, Milanchakra, PS-A.D.
Nagar, Agartala, West Tripura, 59 years

14. Sri Kapil Das

S/o Lt. Krishna Mohan Das of Badharghat
(Matripalli) PS-A.D. Nagar Agartala,
West Tripura, 60 years

15. Sri Paloram Das

S/o Lt. Sudhan Chandra Das of Baltali,
A.D. Nagar Road No.9. PS- A.D.
Nagar West Tripura, 59 years

16. Sri Anup Kumar Das

S/o Lt. Amarendra Das of Town
Rajarbag, PS-R.K Pur, Gomati District, 56 years

17. Sri Priti Ranjan Laskar

S/o Lt. Rati Ranjan Laskar of
Dhaleswar Road No.14 PS- East Agartala,
West Tripura, 59 years

18. Md. Abdul Matin

S/o Lt. Habib Ali of Jamirala College
Road, PS- Dharmanagar, Dharmanagar,
North Tripura, 58 years

19. Sri Kanti Lal Baidya

S/o Lt. Anil Chandra Baidhya of
Kalyani PS- East Agartala,
Agartala, West Tripura, 59 years

20. Sri Ratan Kumar Deb

S/o Lt. Haripada Deb of Ramnagar
A.K Road PS- West Agartala,
West Tripura, 58 years

21. Sri Balaram Sen

S/o Lt. Ashutosh Sen of Shyamalima
Apartment, Flat No.4/10 Block- 4,
Near ILS Hospital, PS- New Capital
Complex, Agartala, West Tripura,
58 years

22. Sri Subrata Chakraborty

S/o Lt. Sudhir Bandhu Chakraborty of
Haneman Homio Hall, 91 Motor Stand
Road PS- East Agartala, West Tripura,
57 years

...The Petitioners

Vs

1.The State of Tripura

(To be represented by the Secretary,
Department of Home, Government of
Tripura), New Secretariat Building,
New Capital Complex, Kunjaban,
P.S- New Capital Complex, Agartala,
West Tripura, PIN 799010

2. The Director General of Police,

Govt. of Tripura, A.K Road, Agartala,
West Tripura, PIN- 799001

3. The Principal Secretary,

GA (P&T) Department, Govt. of
Tripura, New Secretariat Building, New
Capital Complex, Kunjaban, P.S- New
Capital Complex, Agartala, West Tripura,
PIN 799010

4. The Inspector General of Police (Administration),

O/o the Director General of Police, Govt. of
Tripura, A.K Road, Agartala, West Tripura,
PIN- 799001

5. Tripura Public Service Commission,

To be represented by its Secretary,
Govt. of Tripura, A.K Road, Agartala,
West Tripura, PIN- 799001

....The Respondents

For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. S. Bhattacharya, Advocate Mr. K. Nath, Advocate
For Respondent(s)	:	Mr. D. Bhattacharya, GA Mr. S. Saha, Advocate Mr. R.G. Chakraborty, Advocate
Date of hearing & delivery of judgment & order	:	09.01.2023
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT & ORDER (ORAL)

By way of filing the instant writ petition, the petitioners have prayed for following reliefs:

- (i) *Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to exercise the 'power to relax' in terms of Rule-34 of the Tripura Police Service Rules, 1967, by relaxing the age criteria as laid down by Rule-14(4) of the Tripura Police Service Rules, 1967, for promotion to the post of TPS Grade-II from Inspectors of Police.*
- (ii) *Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to exercise power to relax as provided vide Rule-34 of the Tripura Police Service Rules, 1967, by relaxing the age criteria as laid down in Rule-14(4) of the Tripura Police Service Rules, 1967, **for promotion to the post of TPS Grade-II from Inspectors of Police**, in pursuance to the letter, dated, 08.07.2021, containing the proposal for such relaxation, issued by the Inspector General of Police (Adm.), to the Principal Secretary, GA (P&T) Department, Govt. of Tripura.*
- (iii) *Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby quashing & cancelling the Order; dated, 08.09.2021, passed by the Principal Secretary, GA (P&T) Govt. of Tripura.*
- (iv) *Pass an **interim order**, **restraining the Respondents not to proceed with the DPC for promotion to TPS Grade-II** from the feeder posts of Inspectors of Police, till the decision for*

exercising power to relax under Rule-34 of TPS Rules, 1967, is taken for relaxing the age criteria for promotion to the TPS Grade-II from Inspectors of Police or during the pendency of writ petition.

- (v) Make the rules absolute,*
- (vi) Call for records,*
- (vii) Pass any further order/orders as this Hon'ble High Court considered fit and proper."*

2. The petitioners had earlier approached this Court by means of filing a writ petition being WP(C) No.582 of 2021. While disposing of that writ petition this Court had observed thus:

"A bare perusal of the above observation in the notification dated 22nd June, 2021, it has become crystal clear that all promotions in various departments under the State-government were made stalled since 01.04.2017 only because of the order of 'status-quo' order dated 27.07.2015 passed by the Hon'ble Supreme Court as an interim measure.

In the light of above, the submission of learned Advocate General that there was no stay order passed by Hon'ble Supreme Court, according to this court, appears to be insignificant for the reason that it was only due to the order of Supreme Court to maintain 'status-quo', the promotions in the services of the State-government had remained withheld.

The word 'status-quo' means " the situation that currently exists". It is the government who interpreted the order of 'status-quo' as passed by the Supreme Court in its order dated 27.07.2015 and, ultimately in view of this order, the State-government at their own wisdom abstained from initiating any process of promotion in any of the posts from the feeder posts in all the departments under it. In my opinion, for such decision or action of the State-government, the petitioners cannot be blamed and they should be held responsible for the inaction of the government in this respect for the last several years.

In furtherance thereof, in my considered view, the

reasoning as given by the state's Director General of Police in the matter of promotion of his officers should be given due weightage by the government because such reasoning appears to be in consistent with the decision of the government where it desired to initiate the exercise of promotions in the vacant posts in order to "augment efficiency of state administrations".

In the instant case, ultimately, the IGP being the head of the organization is the best person to decide who would be the best officers to provide an efficient administration in the interest of public. From his communication dated 08.07.2021 it is manifested that he for obvious reasons wanted to fill up the posts of TPS Grade – II from the senior most officers and the IGP did not want to deprive those senior and competent officers who rendered their sincere and dedicated service in the interest of public. The IGP also observed that it would be deemed unfair to the legitimate career expectations of these officers for no fault of them.

For the foregoing reasons, I am of the prima facie view that the petitioners were not at fault in any manner to raise their claim for consideration of promotion in the post of TPS, Grade-II and they cannot be held responsible for the stalemate created by the government itself. On conjoint reading of paragraphs 3 and 4 of the notification dated 22nd June, 2021, it manifests that 'status quo' order passed by the Supreme and consequential government decision stood in the way of the petitioners' chances of promotion from being fairly considered when it was due for such consideration and I re-iterate that delay in taking the exercise of such promotion made them ineligible for such consideration which fact the respondents ought to have kept in mind while rejecting the proposal of IGP to give one-time relaxation of age invoking Rule 34 of TPS Rules, 1967.

However, considering the submission of learned Advocate General that the petitioners should make representations to the Government of Tripura, I direct the petitioners to submit a common representation to the Government of Tripura, particularly, the Secretary, General Administration (P&T) and the Secretary, Home

Department, Government of Tripura, to consider their promotion in the post of TPS Grade-II invoking Rule 34 of the Rules, 1967 for relaxation of age of 55 years, one-time measure, as contemplated under Rule 14(4) of the Rules, 1967. It is further directed that the petitioners shall submit representation before the authorities concerned of the government within a period of 4 (four) days from today. The competent authorities of the government shall consider the representation if filed by the petitioners within the next 7 (seven) days and dispose of the same with speaking order. Till then, the State-respondents shall not proceed further with the process of promotion, as initiated under notification dated 18th August, 2021. It is made clear that this order will be confined only to the petitioners of this writ petition.

Needless to say, that the petitioners are at liberty to approach this court, if they are aggrieved of the response of the respondents regarding their representation.

Accordingly, the instant writ petition filed by the petitioners stand disposed in the light of the above observations and directions.

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

3. In terms of the above directions, the petitioners had submitted representation to the State-respondents (Annexure-11 to the writ petition). Thereafter, the respondents vide order dated 8th September, 2021 had rejected the representation compelling the petitioners again to present the instant writ petition claiming the above reliefs.

4. Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharya, learned counsel and Mr. K. Nath, learned counsel appearing for the petitioners. Also heard Mr. D.

Bhattacharya, learned GA assisted by Mr. S. Saha, learned counsel appearing for the respondents-State and Mr. R.G. Chakraborty, learned counsel appearing for the respondent-TPSC.

5. Mr. Roy Barman, learned senior counsel has submitted that rejection of the prayers made by the petitioners in their representation itself is arbitrary and not in consonance with the object for which the provision for relaxation was made under Rule-34 of Tripura Police Service Rules, 1967 (for short, TPS Rules). Learned senior counsel has further submitted that even the Government has not considered the well-reasoned suggestions given by the Inspector General of Police requesting the State Government to invoke Rule-34 of TPS Rules.

6. Mr. Bhattacharya, learned GA has submitted that he received instructions from the Government as directed by the Court which will be revealed from the note nos.- 13,17 and 18. Learned GA has also placed the relevant file containing the notes given by the Government on the subject in issue of the present writ petition.

7. I have perused the note nos.-13, 17 and 18. In note nos.17 and 18, the State Government has instructed the learned GA to wait for the decision of the High Court.

8. In view of this, I have taken up the matter for hearing on consent of the learned counsels for the parties. I have perused order

dated 8th September, 2021, issued by the Principal Secretary to the Government of Tripura. The principal reason as assigned by the Government in the order dated 8th September, 2021 is that *“whereas; if the relaxation of age are being considered in favour of the instant petitioners, then other incumbent concerned those who are holding the feeder post of TCS/TFS etc. may also prefer claim for relaxation of age. Moreover, at present, those who are eligible to be considered for promotion (as per existing rules) may be deprived of promotion and this will create administrative inconvenience.”* Another reason which is also necessary to be pointed out as indicated by the State-respondents is that *“whereas, in order to avoid future legal complicity, it is felt not necessary to relax any of the provisions of the rules by the State respondents with respect to any class or category of persons or posts in accordance with Rule-34 of the said rules”*.

9. Before advert to the merits of the subject matter and the submission advanced by learned counsels appearing for the parties coupled with the “notes” placed before this Court, it would be relevant to take into account the intention of the State Legislatures to allow promotion despite the order of *status-quo* as stated here-in-above.

It comes to fore that the Government of Tripura as a matter of policy decision intended to exercise the matter of promotions to its employees subject to the decision of the Hon'ble Supreme Court in the vacant posts in order to **“augment efficiency in State administrations”**.

10. Rule-14 of the Rules, 1967 provides conditions of eligibility & procedures for selection to the TPS Grade-II, under Rule-5(1)(b) of the Rules, 1967.

Rule-14(1) of the Rules, 1967 provides that the Committee shall consider from time to time the cases of Officers eligible under Rule-5(1)(b) who have served in the cadre of Inspector of Police & Subedars of Tripura State Rifles, for not less than 5 years & prepare a list of Officers recommended taking into account the actual vacancies at the time of selection and those which are likely to occur during a year. The selection for inclusion in the list shall be on merit & suitability in all respects for appointment for service with due regard to the seniority.

Rule-14(3) of Rules, 1967 provides that minimum educational qualification for promotion to TPS Grade-II Service shall be graduation.

11. Sub-rule-4 of Rule-14 of the TPS Rules, has been amended under Tripura Police Service (14th Amendment) Rules, 2013, vide

Notification, dated, 21.12.2013, issued by the GA (P&T) Department, Govt. of Tripura. After amendment Rule-14(4) of the TPS Rules-1967 reads as follows:

“The Committee shall not consider the cases of officers in the feeder posts who have attained the age of 55 years on the 1st day of January of the year in which the Committee meets”.

12. It is pertinent to mention here, that, **Rule-34 of the Rules, 1967, deals with “Power to Relax”**, which may be quoted here-in-below, in extensor, for convenience”

“34. Where the State Government is of the opinion that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing and in consultation with the Commission, relax any of the provisions of these rules with respect of any class or category of persons or posts.”

13. This Court while taking up the matter for disposal, requested learned GA to take instructions from the Government about the steps the Government has taken to address the grievance of the petitioners. On instruction, learned GA has placed the files before this Court where the competent authorities of the State Government have decided to wait for the outcome of the decision of the present writ petition by the Court, which prompted this Court to revisit the reasons assigned by the State Government to reject the prayers

made by the petitioners in the earlier round of litigation followed by their representations in terms of the order of this Court.

14. In the opinion of this Court, the State Government has taken the decision for not invoking the “Power to Relax” clause in a mechanical manner. I do not find any logical ground as regard to the reasons stated above for non-consideration of the promotion of the petitioners. While assigning the reasons as quoted here-in-above, the competent authorities of the State has not considered the material aspect that in view of the *status quo* order passed by the Hon’ble Supreme Court of India, promotion of State Government employees was held up by the State Government itself. Thereafter, out of administrative exigencies, the Government has made a policy decision that promotions of the eligible employees should be considered irrespective of the order of the Hon’ble Supreme Court of India on *ad hoc* basis. The object was to augment efficiency in administration.

15. The promotion of the petitioners to the posts of TPS Grade-II could not be considered for the last few years due to an order passed by the Hon’ble Supreme Court and not due to any fault of the petitioners. Keeping it in mind, the IGP of Tripura, the competent authority of the Police Organisation, who knows the *pros and cons* and competency of his officers, had suggested under

his written communication dated 08.07.2021 that the officers who are eligible for promotion but not considered for promotion due to the Court's order should be considered for promotion and the situation demands to invoke Rule 34 of TPS Rules.

16. Needless to say, before arriving at the said decision and communicating the same to the Government, the competent authority (IGP) must have taken care of the interests of all of its officers. Furthermore, he being the competent authority is the best person to hold that who would be the best officers to serve the interests of the State in protecting the discipline of the police administration. The IGP had kept in mind the necessity to keep the high morale factor of his officers in discharging their services.

17. Here, it would be relevant to abstract the observations of the Inspector General of Police of the State Government which he made in his communication dated 08.07.2021:

*“4. It is seen that, as on 01/01/2021, 33 (thirty-three) Inspectors of Police who otherwise meet all the eligibility criteria had become 55 years or older, Annexure-A provides the entire list of these officers.
5. It may be noted that all the officers have rendered long years of service, including service for at least 5 years in the rank of Inspector. Due to maintenance of ‘status quo’ in matters of promotion in compliance with the interim order dated 27.07.2015 passed by the Hon’ble Supreme Court of India, these officers had not considered for promotion to the next higher rank since last promotion in the rank of TPS Gr-II on 05/06/2013*

6. *At this stage when promotions are being resumed, depriving the above mentioned 33 Inspectors of Police from being considered for promotion to the next higher rank in TPS Gr-II for no fault of any one individual, will be deemed unfair to the legitimate career expectations of these officers.*

7. *In view of the above, it is proposed that, in exercise of Rule 34 "Power to Relax" of The TPS Rules, 1967, the competent authority may kindly relax Rule 14(4) of the TPS Rules, 1967, to allow the DPC to be constituted for the post of TPS Gr-II to consider cases of all officers irrespective of their current age, as a one-time measure."*

18. Now, if we consider the reasoning given by the State's IGP and the Government, according to this Court, the opinion passed by the IGP is more logical, reasonable and acceptable. The ground taken by the Government that *if the senior officers are promoted, then, junior officers may raise their claim and there may be legal complications in future* are not in consonance with the objects the legislatures wanted to achieve qua the reasons assigned by the IGP, Tripura being the competent authority to look after the interests of police administration.

19. The petitioners being the senior most eligible police officers for promotions to the posts of TPS Grade-II had/have always legitimate expectation for having fair treatment in their service career and any infringement can form the basis of judicial review. Rule of equity does not suggest that the junior officers can claim the advantage over the senior officers and, if senior officers are

promoted, the junior officers cannot have any grievance and thus, the apprehension of the Government that junior officers may be deprived of promotion has no substance at all.

20. In furtherance thereof, the senior officers who already have crossed their age of 55 years would retire very soon, and at best they are having their 3/4 years of service and, in this situation the junior officers would have enough opportunity to get their promotions against the posts which will fall vacant on retirement of the senior most officers. It is informed at the Bar that many eligible officers have already been retired by this time and very few officers are still in service.

21. It is settled proposition of law that action of the State and its instrumentalities must reflect an approach informed by reasons. The reasons are the links between the materials on which certain conclusions are based and the actual conclusion. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial. The reasons should reveal the real nexus between the facts considered and the conclusions reached. Only in that eventuality, the decision recorded be shown to be manifestly just and reasonable. A good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities. To

satisfy the requirement of non-arbitrariness in a State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bonafides of the decision in a given case. The decision so made would be exposed to challenge to the ground of arbitrariness. Thus, rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but for control of its exercise by judicial review.

22. It goes without saying that mere reasonable or legitimate expectation of a citizen in such a situation may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law.

23. Further, every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process, which is required to be considered keeping in view larger public interest.

24. In the instant case, the action/decision taken by the State government appears to me to be highly unrealistic, unreasonable, arbitrary and also attracts the doctrine of legitimate expectation.

25. The State or its instrumentalities cannot treat unequals as equals as that would be in violation of Article 14 of the Constitution of India. The senior officers in a department cannot be equated with their juniors in the matter of promotion. Furthermore, it is now well-settled that action of the State must have nexus with the object sought to be achieved.

26. In the present case, the legitimate expectations of the aspiring senior most police Inspectors for promotion in a fair manner have been infringed. The promotions of the senior officers are required to be considered before the promotions of the junior officers to the posts of TPS Grade-II, which, to re-iterate, they legitimately expected.

27. In *State of U.P. vs. Johri Mal*, AIR 2004 S.C. 3800, the Supreme Court held as follows:

“where administrative action is challenged under Article 14 as being discriminatory, equals are treated unequally or unequals are treated equally, the question is for the constitutional courts as primary reviewing courts to consider the correctness of the level of discrimination applied and whether it is excessive and

*whether it has a nexus with the objectives intended to be achieved by administrator. For judging the arbitrariness of the order, **the test of unreasonableness may be applied***” and in such eventuality, the Court can interfere when the decision with regard to the action is arbitrary, discriminatory and having no nexus the law makers intended to achieve.

28. The sweep of Article 14 of the Constitution covers all State action. Non-arbitrariness and fairness are the two immobile and unalterable cornerstones of a legal behavioral baseline.

29. This Court is not unoblivious of the fact that the power of relaxation of recruitment rules should be exercised sparingly under service jurisprudence. It is a matter of policy decision of the Government, but, this Court is also concerned to the legal position that the legislature incorporates the provision for relaxation of recruitment rule in any Act or Rule keeping in mind certain invisible situations or some unavoidable circumstances in the matter of promotion, or in exigencies of effective administration, and in appropriate cases, keeping in view the object the legislature empowering its executives or implementers of the Rule to relax any of the service conditions encrypted in the Recruitment Rule. The implementors i.e. the executives should always keep in mind the

object of incorporation of the provision of relaxation in a particular fact situation.

30. In the case on hand the State Government must give due weightage to the opinions rendered by the State's IGP, which, if read carefully, have direct nexus with objects the State legislatures sought to achieve while restoring the exercise for promotions of its employees aimed to augment efficiency in administration.

31. In the opinion of this Court, if, in appropriate cases the executives fail to address the object of the legislatures, then, "Power to Relax" rule would be frustrated, and if, it is permitted, then, the object of the legislature legislating this particular clause in TPS Rule, 1967 will be defeated. In that case, the Court must step in to protect the hardship caused to a particular employee or class of employees for not exercising the power of relaxation to meet the injustice caused to such employee or class of employees.

32. In the instant case, the Government should not have awaited for the decision of the Court as revealed from the "Note" nos.-13, 17 and 18, but ought to have proceeded to relax the relevant Rule to obviate genuine hardship caused to a class of employees, that is, the petitioners herein and other similarly situated persons directing their promotions in relaxation of the Rules.

33. Indubitably, power to relax Recruitment Rule or any other Rule made by the State Government is conferred upon the Government to meet any emergent situation where injustice might have been caused or where the working of Rule might have become impossible. Under service jurisprudence as also the Administrative Law, such a power has necessarily to be conceded to the employer particularly the State Government or the Central Government who have to deal with hundreds of employees working under them in different departments including the Central or the State Government [Ref: *Ashok Kumar Uppal vs. State of J&K*, (1998) 4 SCC 179]

34. In *State of Maharashtra v. Jagannath Achyut Karandikar* [1989 Supp (1) SCC 393 : 1989 SCC (L&S) 417 : (1989) 10 ATC 593 : AIR 1989 SC 1133 : (1989) 1 SCR 947] it was held as under: (SCC p. 398, para 12)

“The power to relax the conditions of the rules to avoid undue hardship in any case or class of cases cannot now be gainsaid. It would be, therefore, futile for the respondents to make any grievance.”

35. In J.C. Yadav v. State of Haryana [(1990) 2 SCC 189: 1990 SCC (L&S) 218 : (1990) 12 ATC 745] , it was held as under: (SCC pp. 194-95, para 6)

“The relaxation of the Rules may be to the extent the State Government may consider necessary for dealing with a particular situation in a just and equitable manner. The scope of Rule is wide enough to confer power on the State Government to relax the requirement of Rules in respect of an individual or class of individuals to the extent it may consider necessary for dealing with the case in a just and equitable manner. The power of relaxation is generally contained in the Rules with a view to mitigate undue hardship or to meet a particular situation. Many a time strict application of service rules create a situation where a particular individual or a set of individuals may suffer undue hardship and further there may be a situation where requisite qualified persons may not be available for appointment to the service. In such a situation the Government has power to relax Requirement of Rules. The State Government may in exercise of its powers issue a general order relaxing any particular rule with a view to avail the services of requisite officers. The relaxation even if granted in a general manner would ensure to the benefit of individual officers.”

36. This decision was followed in Sandeep Kumar Sharma v. State of Punjab [(1997) 10 SCC 298 : 1997 SCC (L&S) 1682] in which Hon'ble Punchhi, J. (as His Lordship then was), observed as under: (SCC p. 304, para 14)

“The power of relaxation even if generally included in the service rules could either be for the purpose of mitigating hardships or to meet special and deserving situations. Such rule must be construed liberally, according to the learned Judges. Of course arbitrary exercise of such power must be guarded against. But a narrow construction is likely to deny benefit to the really deserving cases. We too are of the view that the rule of relaxation must get a pragmatic construction so as to achieve effective implementation of a good policy of the Government.”

37. In the light of above analysis and discussions on the subject, in my considered view, the present case is an appropriate and fit case to invoke the provision as enshrined under Rule 34 of TPS Rules relaxing the age bar of the petitioners for consideration of their promotions to higher post, i.e. TPS Grade-II to obviate the hardship caused to the senior most Inspectors of police.

38. Accordingly, I am constrained to direct the respondents to relax the age bar of the petitioners for consideration of their promotions to the next higher rank i.e. TPS Grade-II.

The entire exercise of promotion of the eligible officers shall be completed within a period of 3(three) weeks from today. Needless to say, this judgment will be applicable to all the eligible senior police Inspectors.

39. As a sequel, the impugned order dated 08.09.2021 issued by the Principal Secretary to the Government of Tripura stands set aside and quashed.

With the above observations and directions, the instant writ petition stands allowed and thus disposed of.

JUDGE

Snigdha

