

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 718 OF 2022

Sri Dilip Roy Vrs. The State of Tripura & 4 Ors.

Present:

For the petitioner (s) : Mr. P. Roy Barman, Sr.Advocate.
Mr. K. Nath, Advocate.

For the respondent (s) : Mr. D. Sarma, Addl. G.A.

HON'BLE MR.JUSTICE ARINDAM LODH

07.01.2023

Order

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. D. Sarma, learned Addl. G.A. appearing for the State-respondents.

The non-official respondents despite receipt of notice did not appear before this court to contest the claim of the petitioner.

Since exchange of pleadings is complete, at the request of learned counsels appearing for the parties, this matter has been taken up for disposal at the admission stage itself.

Facts in brief are that the petitioner while holding the post of PA-I, a disciplinary proceeding was initiated against him. During the pendency of the said disciplinary proceeding, a DPC was held for consideration of promotion of the eligible candidates to the post of PS-IV. The name of the petitioner was also considered for such promotion to the post of PS-IV from the post of PA-I. But, due to pendency of the disciplinary proceeding, his promotion was kept under sealed cover. On 20th April, 2015, the petitioner was exonerated from the Article of Charges framed against him. Thereafter, he submitted representation for promoting

him to the post of PS-IV, but, he was not given promotion. It is admitted fact that his juniors, the respondent nos. 4 and 5 were given promotion when the DPC was held in the year 2010 and the matter of the petitioner was kept in sealed cover due to pendency of the disciplinary proceeding.

The petitioner had retired from service in the year 2017 and till the date of retirement, he was not given any consequential benefits.

In paragraph 14 of the counter affidavit, the State-respondents have categorically stated that “*consideration of promotion of PA-I to the PS-IV in the DPC meeting held on 20.01.2017, the case of the petitioner was considered for promotion with retrospective effect from 09-03-2010 i.e. from the date on which his junior was promoted.*” It is further stated that due to pendency of Special Leave Petition before the Hon’ble Supreme Court regarding reservation in promotion, all promotions in the State of Tripura were stalled. But, later on, the Govt. of Tripura had framed a policy in the year 2021, wherein, it was decided that eligible candidates would be given promotion to the respective posts on *ad hoc* basis. The said policy has been given prospective effect.

Mr. Sarma, learned Addl. G.A. has submitted that since the petitioner is now retired he is not entitled to promotion. I am not in agreement with the submission of Mr. Sarma, learned Addl. G.A. The petitioner was entitled to promotion in the year 2010 when DPC was held, but, it was not considered due to departmental proceeding. After exoneration from the said departmental proceeding, the DPC was again held to consider the case of the petitioner for promotion to the post of PS-IV from the post of PA-I, and recommended that the petitioner was entitled for promotion to the post of PS-IV w.e.f. the date when his juniors were given promotion. The policy decision taken in the year 2021 regarding promotion would not have any effect to the case of the petitioner regarding his promotion to the post of PS-IV from the post of PA-I for the reason that

he was eligible for promotion in the year 2010 itself and DPC recommended him in the year 2017 after his exoneration from the departmental proceeding.

Be that as it may, I direct the State-respondents to promote the petitioner to the post of PS-IV w.e.f. 09.03.2010. Since the petitioner is retired from service, the State-respondents are directed to provide all promotional benefits including arrears of salary treating him as an officer holding the post of PS-IV, w.e.f. the date when his juniors were promoted, within the period of 6 months from the date of receipt of a copy of this order. His service records shall be corrected for the purpose of pensionary benefits also.

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

JUDGE