

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 785 OF 2022

Bikram Ghosh Vrs. The State of Tripura & 7 Ors.

Present:

For the petitioner(s) : Mr. K. Nath, Advocate.

For the respondent(s) : Mr. M. Debbarma, Addl. G.A.
Mr. R.G.Chakraborty, Advocate.

HON'BLE MR.JUSTICE ARINDAM LODH

08.02.2023

Order

Heard Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the State-respondents.

The petitioner, by means of filing the present writ petition has prayed for following reliefs:

“(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to appoint the Petitioner to the post of Riflemen (General Duty) under UR Category w.e.f. the date on which private Respondents were appointed to the said post, in pursuance with selection for the post of Riflemen(GD) in connection with the Advertisement, dated, 07.03.2019, issued by the Asst. Inspector General of Police (TSR), with all consequential benefits including seniority.

(ii) Make the rules absolute.

(iii) Call for records.

(iv) Pass any further order/orders as this Hon'ble High Court considered fit and proper.”

Briefly stated, in response to the advertisement dated 7th March, 2019, the petitioner appeared in the selection process for appointment to the post of Riflemen (General Duty) as UR category of candidate. The petitioner was not selected though he secured similar marks

with another candidate who was selected and appointed in the meantime. It is found that under Tripura Gazette Notification dated March 5, 2019 A.D. there is a rule that *if the tie in the name of two or more candidates persists, it will be resolved by referring to the alphabetical order of names i.e. a candidate whose name begin with the alphabet which comes first in the alphabetical order gets preference*. It is the reason for which the petitioner's name was not found in the select list because the name of another candidate securing similar marks to that of the petitioner alphabetically came first. The petitioner in this writ petition claims that there are vacant posts which still exist under the respondents and he has sought for a direction of this court to fill up the said vacant posts by way of issuing appointment letter in favour of the petitioner.

Mr. Nath, learned counsel has emphatically submits that vacancy still exists in the post of Riflemen (General Duty) under the respondents.

Mr. Debbarma, learned Addl. G.A. appearing for the State-respondents vehemently resisted the said submission of Mr. Nath, learned counsel for the petitioner and submits that there is no vacant post as on today under Notification dated 7th March, 2019. Mr. Debbarma, learned Addl.G.A. has relied upon para 6 of the counter affidavit, which is reproduced here-in-below:

*“6. That, in reply to para 13 of the writ petition, I say that as many as 20 Nos. of male candidates obtained equal marks (i.e., **61.25 marks in total**) in the recruitment test/selection process for the post of Riflemen (GD) (male insider) under UR category for new TSR IR Battalions in pursuance to said Advertisement. Out of those 20(twenty) candidates who obtained 61.25 marks in total, only 04 candidates have been selected by the Recruitment Board against the available vacancy of Riflemen (GD) UR Male (Inside State quota). The tie of marks was resolved and seniority was determined as per provision of the **Rule 25(i) (Resolution of the cases)** of the Tripura State Rifles (Recruitment) (16th Amendment) Rules, 1018. As there is no vacancy left out for Riflemen (GD) (Insider) (male) UR category as per Advertisement notification, the name of the 16(sixteen) candidates*

including name of the petitioner, who obtained 61.25 marks in total in the recruitment test/selection process, could not be considered for selection by the Recruitment Board.

*Hence, it is not a fact that the respondents have treated similarly situated person unequally as tie of marks was resolved and seniority of the candidates was determined followed by the provision of the **Rule 25(i) (Resolution of the cases)** of the Tripura State Rifles (Recruitment) (16th Amendment) Rules, 2018.”*

I have considered the submissions of learned counsels appearing for the parties.

After considering all aspects, this court directs the respondents to consider the claim of the petitioner if he is found to be eligible and qualified for the said post subject to availability of vacancy under Notification dated 7th March, 2019 as UR category candidate. The exercise for this purpose shall be completed within three months from the date of receipt of the copy of this order.

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

JUDGE