

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.763 of 2023

Sri Uttam Debnath

..... Petitioner(s)

V E R S U S

State of Tripura and others

..... Respondent(s)

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Mr. P. Chakraborty, Advocate.

For Respondent(s) : Mr. D. Sharma, Addl. G.A.,

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

_O_R_D_E_R_

21.12.2023

Heard Mr. Somik Deb, learned senior counsel appearing for the petitioner and Mr. D. Sharma, learned Additional Government Advocate appearing for the State.

The petitioner has been promoted from Junior Engineer Grade-II (Diploma) to Junior Engineer Grade-I (Diploma), Group-B Gazetted service under the Rural Development Department, Government of Tripura on *ad hoc* basis (in view of the pendency of the case before the Supreme Court being SLP No.19765-19767 of 2015) vide notification dated 01.06.2023, signed on 26.05.2023 by the Deputy Secretary, Rural Development Department, Government of Tripura (Annexure-7) pursuant to the directions passed by this Court in his earlier writ petition [WP(C) No.754 of 2022]. The writ petition was disposed of in the following manner :

“In the instant case, as I said earlier, only, for the reason that, the department could not furnish the requisite number of ACRs, the case of the petitioner was not considered. Be that as it may, I direct the respondents to consider the promotion of the petitioner within a period of 4(four) weeks from today with a further direction upon them to

produce the requisite ACRs, being its custodian within a period of 7(seven) days from today.

In the event of consideration of promotion of the petitioner to the post of Junior Engineer Grade-I (Diploma), all consequential benefits shall be provided to the petitioner including seniority.

With the aforesaid directions, the instant writ petition stands allowed and disposed.”

Petitioner has approached this Court again as before he was granted promotion to Junior Engineer Grade-I (Diploma) vide notification dated 01.06.2023 at Annexure-7, on 09.01.2023 certain juniors of the same cadre at serial Nos.32-39 were granted full duty charge of higher post under the department ignoring the case of the petitioner. Full duty charge basically is assignment of higher charge on temporary basis and is rescindable at any point of time. It does not effect the *inter se* seniority of the original post of the incumbents and they do not have a right to claim regular promotion/regularization of promotion on the basis of Full Duty Charge. They, however, get some nominal allowance for discharging the responsibilities of the higher post for that period.

Mr. Somik Deb, learned senior counsel for the petitioner submits that in view of assignment of Full Duty Charge to the junior officers of his grade, he may have to report to his juniors. Even while granting Full Duty Charge ordinarily the seniority of the officers in that grade is taken into account unless he is unfit for some specific reason. As such, the instant grievance of the petitioner may be redressed.

Learned counsel for the State submits that the notification at Annexure-4 dated 09.01.2023 has been issued few days after passing of the order dated 05.01.2023 in WP(C) No.754 of 2022 in the case of the present petitioner and, as such, department cannot be blamed for assigning full duty

charge to certain other officers of his cadre though they may be junior to him. Upon consideration of his case and furnishing of ACRs he has been promoted with retrospective effect from 17.02.2022 with all consequential benefits vide Annexure-7 dated 01.06.2023. As such, neither his seniority nor any loss of consequential benefits result on account of grant of full duty charge to some officers of his cadre even though junior to him. However, he submits that if so directed, the case of the petitioner for Full Duty Charge may be considered, in accordance with law by the competent authority.

On consideration of rival submissions of the parties and without making any comments of the claim of the petitioner for the aforesaid assignment of full duty charge in the circumstances noted above from the pleadings on record, this Court deems it fit to direct the petitioner to approach the competent authority (respondent No.2) for consideration of his grievances within a period of 2(two) weeks from today. On consideration thereof, the respondent No.2 would take a decision, in accordance with law, within 4(four) weeks thereafter. Needless to say, if the claim of the petitioner finds favour, the petitioner may also be assigned the full duty charge, as assigned to some of his juniors.

The writ petition is disposed of accordingly. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ