

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.48 of 2024

Debasish Saha

Son of Khokan Chandra Saha, resident of Dhaleswar, Jail Ashram Road,
Agartala, West Tripura, Pin-799007. (Age-31 years)

....Petitioner(s)

VERSUS

1. The State of Tripura

represented by the Secretary, Department of Labour, Government of Tripura,
New Secretariat Building, New Capital Complex, Kunjaban, P.S- New
Capital Complex, Agartala, West Tripura, Pin-799010.

2. The Secretary, Department of Labour, Government of Tripura

New Secretariat Building, New Capital Complex, Kunjaban, P.S- New
Capital Complex, Agartala, West Tripura, Pin-799010.

3. The Director of Employment Services & Manpower Planning, Tripura

Directorate of Employment Services & Manpower Planning, Agartala, West
Tripura, Pin-799001.

4. The Chairman, Joint Recruitment Board, Tripura

Shram Bhavan, Office Lane, Agartala, West Tripura, Pin-799001.

5. The Member Secretary, Joint Recruitment Board, Tripura

Shram Bhavan, Office Lane, Agartala, West Tripura, Pin-799001.

6. The Controller, Joint Recruitment Board, Tripura

Shram Bhavan, Office Lane, Agartala, West Tripura, Pin-799001.

....Respondent(s)

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate
Mr. Dipjyoti Paul, Advocate

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

Date of hearing & delivery : **05.11.2024**
of judgment & order

Whether fit for reporting : **No**

HON'BLE MR. JUSTICE ARINDAM LODH

Judgment & Order (Oral)

Heard Mr. Dipjyoti Paul, learned counsel appearing for the
petitioner. Also heard Mr. D. Sarma, learned Addl. G.A appearing for the
State-respondents including JRBT.

2. The case of the petitioner is that in pursuance of an
advertisement, he applied to the posts of Junior Operator (Pump) and Junior

Multi-Tasking Operator (Uncommon). As per the advertisement, the details of essential qualifications for the said two posts are mentioned as under:-

“Eligibility criteria	Name of the Post	Details of essential qualification
	Junior Operator (Pump)	<u>Common for Junior Operator (Pump) and Junior Multi Tasking Operator(un-common) i.e.</u> (a) Madhyamik or equivalent examination passed from any recognized Board/Institution. And (b) National Trade Certificate (NTC) issued by National Council for Vocational Training (NCVT) in any of the following trade (i) Welder (Gas & Electric), (ii) Plumber, (iii) Turner, (iv) Fitter, (v) Mechanic Diesel, (vi) Pump Operator cum Mechanic, (vii) Wireman, (viii) Electrician.”
	Junior Multi Tasking Operator (un-common)	

2.1. The petitioner participated in the selection process. The respondents published the merit list of the candidates, but the name of the petitioner was not found in the said merit list. The petitioner suspected the integrity of the merit list and he made an application under RTI Act for supplying him the total marks he obtained in the written examination and interview. The Information Officer informed the petitioner that he secured 107 marks in total. The petitioner having found that a candidate was selected for the concerned post despite securing lower marks had served a legal notice to consider his case as he secured more marks than that of the selected candidate, namely Arpan Sarkar (serial no.1965) who obtained 86 marks only. But, since the representation was not responded to compelled the petitioner to file a writ petition before this Court bearing no.WP(C) 730 of 2023 (Annexure-9 to the writ petition). While disposing of the said writ petition, this Court had passed the following directions:-

“In such a situation, the petitioners are granted liberty to approach the Chairman, JRBT, respondent no.4 in respect of their grievances by filing a representation enclosing the copy of the writ

petitions also within a period of 1(one) week. Respondent no.4 would consider the representation of the petitioner, in accordance with law, within a period of 4(four) weeks thereafter. Upon such consideration if it is found that the grievance of the petitioner is genuine and legitimate, it would be open for the JRBT to revise the merit list by including the name of the one of the other petitioner whose case has been found to be genuine and to recommend to the competent authority for appointment to the respective post to which they are eligible and found successful. The decision be also communicated to the individual petitioners as per the address indicated in their representation/writ petition thereafter. If the petitioner is adversely affected by such decision he is at liberty to raise his grievances again in an appropriate proceeding.”

2.2. In pursuance of the aforesaid order, the petitioner submitted a fresh representation to the Chairman, Joint Recruitment Board, Tripura (for short, ‘JRBT’) on 21.12.2023. On receipt of the said representation, the competent authority of the JRBT informed the petitioner that his name could not be recommended in the final merit list against the post of Junior Operator (Pump) Junior Multi-Tasking Operator (un-common), as he was found ineligible for not furnishing necessary trade certificate. In view of such rejection of the representation and non-consideration of his inclusion in the merit list published by JRBT, the petitioner approached this Court again by way of filing the instant writ petition praying for a direction upon the respondents to issue mandamus upon the respondents to include his name in the final merit list for consideration of his appointment in the post of Junior Operator (Pump) or Junior Multi-Tasking Operator (Un-common).

3. Mr. Paul, learned counsel for the petitioner has submitted that from the Trade Certificate of the petitioner(Annexure-3 to the writ petition), it is apparently clear that the petitioner obtained the said certificate on 12.10.2018. So, it is established that at the time of participation in the selection process, the petitioner was having the National Trade Certificate which fulfills the requirements for the post he applied for. Moreso, the

contention of the learned counsel for the petitioner is that the petitioner submitted trade certificate at the time of submission of application.

4. On the other hand, opposing this submission, Mr. Sarma, learned Addl. G.A for the respondents submitted that there is no material to justify this statement that the petitioner had submitted trade certificate at the time of submission of the application. Mr. Sarma, learned Addl. G.A has further submitted that authorities of JRBT has not committed any wrong in selecting Arpan Sarkar since he has fulfilled all the criteria as mentioned in the advertisement.

5. I have considered the submission of learned counsel appearing for the parties. From the reply dated 12.01.2024, JRBT has clearly mentioned that the candidature of the petitioner could not be considered due to non-availability of necessary trade certificate. There is no material before this court to substantiate that the petitioner had submitted trade certificate at the time of submission of his application before the JRBT. In such a situation, according to me, the respondents have not excluded the name of the petitioner arbitrarily.

5.1. It is settled principle of law that the Court will definitely interfere with any executive action if the power to take such action is exercised arbitrarily or actuated with malice. But, unless and until there is manifestation of arbitrary exercise of power and the action is found to be bonafide, the court will refrain from issuance of mandamus upon the authorities concerned. In the instant case, the petitioner failed to establish that he fulfilled all the essential qualifications as notified in the advertisement till the date of publication of final merit list. So, as on the date of publication of final merit list by the JRBT, no fundamental right of the

petitioner is infringed calling for issuance of mandamus upon the respondents.

5.2. In the above conspectus, in my opinion, this is not a fit case to issue mandamus directing the respondents to include the name of the petitioner in the final merit list for the post he applied for. However, I have left the matter open to the JRBT to consider the case of the petitioner in accordance with law, if any vacancy exists as he has secured 107 marks. Any decision in this regard shall be communicated to the petitioner within a period of 3(three) months from the date of receipt of a copy of this order.

The instant writ petition stands disposed with the aforesaid terms.

JUDGE



Rohit

SANJAY
GHOSH

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by SANJAY
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