

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 153 OF 2024

Sri Rajib Saha, S/O- Lt. Haradhan Saha, R/O- Kalyani, Dhaleswar, Near Tarun sangha Club, P.O- Dhaleswar, P.S- East Agartala, P.O- Agartala, Tripura (W) 799007

-----Petitioner

Versus

1.The State of Tripura,

Represented by the secretary, Rural Development Department, Govt of Tripura having his office at New Secretariat Building, Agartala, P.O- New Secretariat, P.S- N.C.C, Agartala, West Tripura, 799010.

2.The District Magistrate and Collector,

West Tripura, Agartala, Having his office at Office Lane, P.O- Agartala, P.S- West Agartala PS- Agartala, Tripura (W)

3.The Executive Engineer,

RD Jirania Division, Having his office at Jirania RD Block, P.O and P.S - Jirania, Jirania, Tripura(W),

4.The Chief Engineer,

RD Jirania Division, Having his office at Jirania, RD Block, P.O and P.S- Jirania, Jirania, Tripura (W)

-----Respondents.

For the petitioner : Mr. Debajit Biswas, Advocate.

For the respondents : Mr. M. Debbarma, Addl. G.A.

Date of hearing & delivery of judgment and order : 28.11.2024

Whether fit for reporting : No

HON'BLE MR.JUSTICE ARINDAM LODH

Judgment & Order(oral)

By means of filing the instant writ petition, the petitioner has prayed for following reliefs:

“i. Issue a writ, order or direction in the nature of certiorari for partly setting aside the order dated 08.08.2023 issued

by the respondent No.2 denying the promotion to the petitioner to the Post of head clerk/accountant as per law. (Annexure-4 to the writ petition)

ii. Issue a writ, order or direction in the nature of mandamus commanding/directing the respondent authority to promote the petitioner to the post of Head Clerk/Accountant.

iii. Issue a writ, order or direction in the nature of mandamus to allow the petitioner to join the promoted post of Head Clerk/Accountant.

iv. Issue any such other and further orders which this Hon'ble Court may deem fit and proper under the circumstances of the case.

v. Award the cost of the petition to the petitioner, against the respondents."

2. On perusal of the above prayers, it is clear that the petitioner has prayed for promotion to the post of Head Clerk/Accountant Grade from the post of Upper Division Clerk (UDC) which is a feeder post.

3. Mr. Debajit Biswas, learned counsel appearing for the petitioner has submitted that the petitioner was eligible for promotion, but, he was not considered for the same on the ground that when the exercise of promotion was taken up, a disciplinary proceeding was pending against him. Later on, the petitioner had challenged the order of penalty by way of filing **WP(C) No. 301 of 2022**, titled as **Sri Rajib Saha Vrs. State of Tripura & Anr.** Upon hearing the matter, this Court disposed of the said writ petition on 19.05.2023 with the following order:

"14. After careful scrutiny of the evidence let in, in the departmental proceedings, to substantiate the Articles of Charges framed against the petitioner, which I have narrated in the preceding paragraphs, according to me, the present case is a case based on no evidence, which has influenced this Court to interfere with the impugned order dated 12.03.2021 confirmed by the Appellate Authority by order dated 28.12.2021. Accordingly, the impugned order of penalty passed by the Disciplinary authority dated 12.03.2021 and confirmed by the appellate authority by order dated 28.12.2021, stand set aside and quashed.

15. Consequently, the petitioner is entitled to all the service benefits including all arrears of salary and other ancillary service benefits including promotion as if he has been in service all along by way of regularizing his suspension period.

In view of the above observations and directions, the instant writ petition stands allowed and thus disposed of.”

4. Mr. Biswas, learned counsel appearing for the petitioner has submitted that the State-respondents had complied with and implemented all the above orders except the matter of consideration of promotion of the petitioner to the post of Head Clerk/Accountant Grade. Learned counsel has further submitted that one of the requirements of eligibility for consideration of promotion to the post of Head Clerk/Accountant Grade is that one has to undergo accounts training for one year at first and thereafter for another 4(four) years after joining to the promotional post. Learned counsel has drawn my attention to Clause 11 of the Recruitment Rules [Annexure-8 to the writ petition] for consideration of promotion to the post of Head Clerk/Accountant Grade. It is submitted that the petitioner was directed to undergo accounts training vide memo dated 26th November, 2013 [Annexure-5 to the writ petition], but, he was prevented by his Head of Office i.e. the Block Development Officer vide communication dated 12.12.2013 [Annexure-6 to the writ petition] on the ground that if he was allowed to send to undergo accounts training then *‘all the official works of developmental schemes will be hampered to an immense extent.’*

5. After the judgment and order passed by this Court whereby and whereunder the order of penalty was quashed, the petitioner submitted representation on 31.05.2023 [Annexure-3 to the writ petition] for consideration of his promotion to the post of Head Clerk/Accountant Grade but the respondents vide memo dated 8th August, 2023 [Annexure-4 to the writ petition] rejected the prayer of the petitioner on the ground that he did not fulfill the necessary requirements for promotion to the said post. According to

the respondents, the petitioner had to fulfill the administrative/accounts training for holding the promotional post, which he lacked.

6. Feeling aggrieved of the order of rejection to consider his promotion to the post of Head Clerk/Accountant Grade, the petitioner has approached this Court by way of filing the instant writ petition.

7. On the other hand, Mr. M. Debbarma, learned Addl. G.A. appearing for the State-respondents has candidly submitted that the petitioner has neither fulfilled the criteria of completing administrative/accounts training nor he attained the age of 55 years as contemplated under the Recruitment Rules. Furthermore, the petitioner has not completed the minimum service of 15 years to make him eligible to be considered for promotion to the post of Head Clerk/Accountant Grade.

8. At this juncture, Mr. Biswas, learned counsel appearing for the petitioner has submitted that the petitioner has completed 15 years of service on 23rd September, 2023 which is admitted by learned Addl. G.A.

9. Mr. Debbarma, learned Addl. G.A. has apprised this Court that when the exercise of promotion was undertaken by the respondents, at that time, the petitioner did not fulfill the essential criteria for consideration of promotion to the post of Head Clerk/Accountant Grade. The petitioner neither completed 15 years of service nor he had the required administrative/accounts training.

10. I have considered the submissions of learned counsel appearing for the parties.

11. Clause 11 of the Recruitment Rules for promotion to the post of Head Clerk/Accountant Grade stipulates as follows:-

“11.	<i>In case of recruitment by promotion/transfer on deputation, grades from which promotion/transfer on deputation is to be made.</i>	:-	<i>From the post of UDC grade posts such as UDC/UDC(Stamp)/UDC(Record keeping)/UDC(Accounts)/UDC(Statistics) UDC-cum-Cashier with at least 5(five) years experience in the grade and acquired Accounts training conducted by State Government in respect of promotion to the posts of Head Clerk-cum-Accountant/Accountant (respective departments shall indicate the nomenclature of the feeder posts of the department itself here).</i> <i>Transfer on deputation from holder of analogous post of other department having passed the Accounts Training.</i> <i>Note:- Departmental candidates having competed (sic completed) 15(fifteen) years of service or more in the grade of UDC etc. as well as have attained the age of 55(fifty-five) years may be exempted from the passing out the proposed Accounts training.”</i>
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12. From the above essential requirements, I find that promotion to the post of Head Clerk/Accountant Grade will be made from the post of UDC Grade having at least 5 years experience in the Grade and acquired accounts training conducted by the State Government in respect to the post of Head Clerk/Accountant Grade. It is further noted at Clause 11 that departmental candidates having completed 15 years of service or more in the grade of UDC as well as have attained the age of 55 years may be exempted from passing out the proposed accounts training. It is an admitted position that the petitioner served the respondents as UDC for more than 15 years. Records speak that the petitioner was proposed to undergo accounts training vide memo dated 26th November, 2013, but, the BDO under whom he was working did not allow him to undergo the said training on the ground that the official works of the departmental schemes will be badly affected in his absence. From this, it is clear that the petitioner was not allowed by his employer to undergo the

required training for consideration of promotion to the post of Head Clerk/Accountant Grade.

13. I find no fault with the petitioner when he was not allowed by his employer to undergo the said training. For this reason, I direct the respondents to consider the case of the petitioner within a period of 2(two) months sending him to undergo required training programme so as to make him eligible for promotion to the post of Head Clerk/Accountant Grade as he fulfills other essential qualifications. Thereafter, when fresh process of promotion to the post of Head Clerk/Accountant Grade will be taken up, the respondents shall send his name to the Departmental Promotion Committee (DPC) for consideration of his promotion to the post of Head Clerk/Accountant Grade.

With the aforesaid observations and directions, the instant writ petition stands allowed and disposed of to the extent as indicated above.

JUDGE



SANJAY GHOSH Digitally signed by SANJAY GHOSH
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