

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.520 of 2022

Dr. Partha Sarathi Pal

....Petitioner(s)

Versus

The State of Tripura and 5 Ors.

....Respondent(s)

For the Petitioner(s) : Mr. S.M. Chakraborty, Sr. Advocate

For the Respondent(s) : Mr. Somik Deb, Sr. Advocate
Mr. K. De, Addl. GA
Mr. Raju Datta, Advocate
Mr. P. Chakraborty, Advocate
Mr. D. Sarma, Addl. GA

HON'BLE MR. JUSTICE ARINDAM LODH

Order

03/05/2024

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

“(a) admit the petition;

AND

(b) issue Rule NISI upon the respondents to show cause as to why the Notification dated 28-09- 2016 (Annexure-10) shall not be quashed and/or set aside so far the private respondent Nos.4 and 5 are concerned;

AND

(c) as to why the provisional seniority list dated 12-12-2017 (Annexure-14), the provisional seniority list dated 23-11-2018 (Annexure-17) and the provisional seniority list dated 08- 04- 2020 (Annexure-19) shall not be quashed and/or set aside;

AND

(d) as to why the State respondents shall not be directed to re-fix the seniority of the petitioner at Serial No.2 just below the name of Dr. Asis Debbarma in the Department of Biochemistry, Agartala Government Medical College and GBP Hospital, Agartala;

AND

(e) as to why all consequential benefits of fixation of such seniority of the petitioner at Serial No.2, below the name of Dr. Asis Debbarma so far promotion to the next higher post, fixation of salary, etc. shall not be done forth-with;

AND

(f) after hearing the petition this Hon'ble Court may be pleased to make the Rule absolute in the light of the prayers made above;

AND

(g) any other appropriate writ or direction, order or orders as may be found appropriate, may be issued / passed by this Hon'ble Court."

In response to an advertisement no.09/2016 published on 22.09.2016 in a local newspaper, the petitioner, Dr. Partha Sarathi Pal had applied for the post of Assistant Professor in the stream of Biochemistry. He was selected and he received the offer of appointment to the post of Assistant Professor, Department of Biochemistry in Agartala Government Medical College and GBP Hospital, Agartala vide memorandum dated 13.01.2017(*Annexure-12* to the writ petition). The petitioner, accordingly, joined and his joining report was accepted by the competent authority under memorandum dated 24.06.2017 along with others on regular basis as Assistant Professor.

The provisional seniority list was published by the respondents-State under notification dated 12.12.2017(*Annexure-14* to the writ petition) where the seniority position of the petitioner has been shown at serial no.4 i.e. below Dr. Dilip Kumar Das(Date of joining 28.09.2016), Dr. Subhojit Das(date of joining 28.09.2016) and Dr. Asis Debbarma(date of joining 01.10.2016).

From the said provisional seniority list, it transpires that the date of joining of the petitioner on regular basis was mentioned as on 31.01.2017. The petitioner, Dr. Partha Sarathi Pal has submitted representation raising objection to the said seniority positions mentioned in the provisional seniority list dated 12.12.2017.

It is informed by learned counsel appearing for the parties that the said objection of the petitioner was under consideration of the respondents-State

which has been mentioned at para 10 of the counter affidavit of the respondents-State.

At this juncture, Mr. Deb, learned senior counsel appearing for respondent no.4 has submitted that the petitioner has no locus to challenge the seniority position of the respondent no.4 because his dated of joining on regular basis was on an earlier date than that of the date of joining of the petitioner. It is further argued that the petitioner has no right to challenge the order issued by the respondents absorbing the respondent no.4 as Assistant Professor on regular basis w.e.f. 28.09.2016 which was made by invoking the Rule 29 embodied in Tripura Medical Education (Administrative & Faculty) Service Conditions Rule, 2015(for short, Rule of 2015).

The said process of absorption invoking Rule 29 of the said Rule of 2015 was questioned by one Dr. Tanmoy Deb in *WP(C) No.1172 of 2019* titled as *Dr. Tanmoy Deb vs. The State of Tripura and Ors.* On perusal of the said judgment, I find that learned Single Judge of this Court has dismissed the writ petition without granting any relief to the petitioner whereby and whereunder he has challenged the process of absorption of the respondent no.4 herein and others. Dr. Tanmoy Deb had preferred an intra-court appeal which also was dismissed.

However, Mr. Chakraborty, learned senior counsel for the petitioner has submitted that the said writ petition was on different context and cannot be of any relevance to decide the claims raised in the present writ petition.

Keeping in mind the aforesaid provisions and the rule contained in Rule 29 of the said Rule of 2015, at this stage, I refrain myself to sit over the process undertaken by respondents to determine seniority position of the petitioner as well as the respondent no.4 and other similarly situated Assistant Professors. However, I direct the respondents-State to complete the process and publish the final seniority list within a period of 3(three) months from the date of receipt of the copy of this order

The instant writ petition stands disposed in the above terms.

JUDGE

Snigdha

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KAR

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by SAIKAT KAR
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