

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.87 of 2023

The Managing Director, Tripura State Electricity Corporation Limited &
another

.....Appellant(s);

Versus

Sri Amar Dey & another

.....Respondent(s).

For Appellant(s) : Mr. N. Majumder, Advocate.

For Respondent(s) : Mr. Kousik Roy, Advocate,
Mr. Rohan Chakraborty, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

08/07/2024

Heard Mr. N. Majumder, learned counsel for the appellants-
Corporation and Mr. Kousik Roy, learned counsel for the respondent
No.1/petitioner.

2. Petitioner is a Group-D employee regularized with effect from
11.04.2011 under the Corporation. The learned Writ Court has directed the
Corporation to make necessary arrangement for eligibility test of the petitioner
for promotion to the post of Driver (Group-C) from Group-D in view of a
recommendation of the Additional General Manager, Electrical Circle,
Udaipur, Gomati addressed to the Chief Engineer, PWD (R&B), Agartala,
West Tripura. The Writ Court has also directed the Corporation to pass
necessary directions after considering the relevant Recruitment Rules and the
suitability of the writ petitioner as regards his promotion to the post of Driver
(Group-C) within a stipulated period.

3. The appellants-Corporation does not have any Recruitment Rules prescribed for promotion of Drivers from Group-D to Group-C post. This fact of course was not brought to the notice of the learned Writ Court. But in the absence of a duly constituted cadre of Group-C to which promotion from Group-D Drivers is mandated under a Rule, writ of mandamus to consider the case of the petitioner and promote him would not lie.

4. Learned counsel for the appellants reiterates this legal difficulty in complying with the directions of the learned Writ Court. There is no proposal as yet for framing of Recruitment Rules for promotion of Drivers (Group-D) to Group-C. There are no such sanctioned vacant posts to accommodate Group-D Drivers in Group-C on promotion. There are no criteria prescribed for consideration of their eligibility and suitability, if any.

5. Mr. Roy, learned counsel for the respondent No.1/writ petitioner, submits that he has been serving in Group-D post for more than ten years after being regularized under the Corporation. His initial appointment was under the Power Department, but services were later on transferred to the Corporation on its creation. However, he is not in a position to dispute that there are no Recruitment Rules in place. He however prays that suitable direction may be made for the Corporation to frame Rules as there cannot be a stagnation in any cadre of the services under the State or its instrumentalities.

6. Regard being had to the aforesaid facts and circumstances, this Court is of the considered view that a writ of mandamus, for consideration of the case of the writ petitioner for promotion on the post of

Driver in Group-D to Group-C, could only be issued upon existence of Recruitment Rules and sanctioned vacant posts in Group-C. Perhaps this fact was not brought to the notice of the learned Writ Court. The petitioner/respondent No.1 herein may be only one of those who are working as Driver in Group-D post in the Corporation. Absence of Recruitment Rules laying down promotional avenues of such class of Gr-D Drivers would lead to stagnation in service over their long service career till their retirement. Therefore, we deem it proper to direct the Corporation to consider whether Rules are required to be framed for promotion of Drivers in Group-D to Group-C post. The respondent would also be required to keep in mind the constitution of Group-C cadre under the Corporation which are being filled up through direct recruitment and/or promotion from other Group-D posts while prescribing a quota for the Drivers in Group-D post if deemed necessary. Upon framing of the Rules, if any, cases of eligible persons including that of the petitioner/respondent No.1 herein could be considered for promotion to Group-C post.

7. With the aforesaid observations and directions, the impugned order is accordingly interfered in the manner indicated hereinabove. The instant appeal stands disposed of.

8. Pending application(s), if any, also stands disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

Pijush/

MUNNA SAHA Digitally signed by MUNNA SAHA
Date: 2024.07.11 15:36:45 +05'30'