

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.518 of 2023

Sri Tutan Lal Singha

.....Petitioner(s);

Versus

The State of Tripura & others

.....Respondent(s)

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

For Respondent(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. Kohinoor N. Bhattacharyya, G.A.,
Mr. P. Gautam, Advocate,
Mr. B. Paul, Advocate,
Ms. K. Reang, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

15/03/2024

Heard learned counsel for the parties.

2. Petitioner approached this Court for appointment to the post of PA-II (Jr. Grade Stenographer) (Group-C) under District and Subordinate Judiciary of Tripura. He was at serial No.34 of the panel in the final merit list. The panel had a life of one year from 30.08.2022 till 30.08.2023. It is not in dispute that the petitioner had approached this Court on 18.08.2023 before expiry of the panel.

3. Initially petitioner claimed that two candidates at serial No.29 & 31 had resigned. Therefore, he should be appointed from the waiting list which is alive for one year. Counter Affidavit was filed by respondents No.3 & 4. It was indicated that after resignation of two candidates at serial No.29 & 31, two candidates from the waiting list namely Smt. Susmita Debnath at serial No.32 and Sri Subhrajit Saha at serial No.33 have been appointed against the resultant vacancy to the post of PA-II (Jr. Grade Stenographer) (Group-C). It was also

submitted by learned senior counsel for the respondents No.3 & 4 that there are no vacancies left. Petitioner is at serial No.34 of the waiting list. The panel has expired after one year. Petitioner obtained certain information under RTI and incorporated it in his Rejoinder Affidavit. Taking note of the averments made therein, respondent No.5 was also noticed to appear and file Counter Affidavit. Respondent No.5 has filed Counter Affidavit.

4. The petitioner's contention is that Sri Subhrajit Saha at serial No.33 had joined on 10.01.2023 though Smt. Rinku Chakraborty at serial No.31 had resigned on 24.01.2023. Before occurrence of vacancy, he could not have been appointed. Petitioner also contended that the zone of consideration is of 40 candidates and not confined to 38 candidates. Two posts are still lying vacant for filling up from the merit list dated 30.08.2022. Therefore, the petitioner, who is next in line at serial No.34, could easily be offered appointment by the respondents.

5. The respondent No.5 in his affidavit has in so many words tried to clear the air. It appears from the averments made in the Counter Affidavit of respondent No.5 that Smt. Rinku Chakraborty had tendered her resignation on 24.01.2023 but Sri Subhrajit Saha at serial No.33 had been appointed on 10.01.2023. However, the affidavit seeks to explain that this appointment of Sri Subhrajit Saha at serial No.33 of the panel was due to retirement of Sri Nirmal Kanti Nath on 31.10.2022. Further averments indicate that this appointment of Sri Subhrajit Saha against the vacancy created due to retirement of Sri Nirmal Kanti Nath has been adjusted against the vacancy created by resignation of Smt. Rinku Chakraborty since the post which fell vacant upon retirement of Sri Nirmal Kanti Nath was a promotional post. The affidavit further indicates that a

total of 22+16 number of posts of PA-II i.e. 38 number of posts were to be filled up as per the advertisement. All those posts stood filled up by the date of expiry of the panel. The two posts which the petitioner is harping upon are actually promotional posts which accrued on account of retirement of two persons Sri Nirmal Kanti Nath and Sri Biplab Roy who were in the cadre of PS-IV and PA-I respectively.

6. Mr. Samarjit Bhattacharjee, learned counsel for the petitioner, submits that the information furnished under RTI also gives an impression that there were 40 posts to be filled up. However, the affidavit of respondents No.3 & 4, and 5 separately very categorically say that there were 38 posts which were advertised. The misimpression which may have been created due to RTI information is on account of the vacancy created due to retirement of Sri Nirmal Kanti Nath and Sri Biplab Roy who were occupying promotional posts. Promotional posts cannot be filled up from direct recruits from the waiting list. As such, since the entire 38 vacant posts have been filled up during the lifetime of the panel and no further vacant posts are available to be filled up through direct recruitment, petitioner's claim to be appointed as a direct recruit to the grade of PA-II cannot be allowed.

7. In view of the aforesaid facts and circumstances discussed and for the reasons recorded, no relief can be granted to the petitioner. The instant petition is accordingly dismissed.

8. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ

Pijush/