

HIGH COURT OF TRIPURA
AGARTALA

WA No.118 of 2022

1. The State of Tripura, represented by
the Secretary, Health & Family Welfare Department,
Government of Tripura, New Capital Complex,
New Secretariat Building, Agartala West Tripura.
2. The Director of Health Services, Government of Tripura,
P.N. Complex, Gurkhabosti, Agartala West Tripura.
3. The State of Tripura, represented by
the Secretary, Finance Department, Government of Tripura,
having his office at Civil Secretariat, P.O. Secretariat Complex,
P.S. New Capital Complex, Sub-Division, Agartala, West Tripura.

.....Appellant(s).

Versus

1. Sri Dipak Das, S/o Sri Haripada Das, Resident Dashamighat,
Ramsundar Nagar P.O. Battala, Agartala,
District West Tripura, Pin-799001.
2. Smt. Gita Das, W/o of Haradhan Das, R/O- Bhattapukur,
Baluchar, P.O: A.D. Nagar, Agartala.
3. Sri Ajit Kumar Biswas, S/o Lt. Manmohan Biswas,
R/O Amtali P.L. home, P.O: Amtali, West Tripura-799130.
4. Sri Haripada Sukla Das, S/O Lt. Ramdayal Sukla Das,
R/O Bagmara, Amtali, West Tripura-799130.
5. Smt. Sipra Das, D/O Lt. Nani Gopal Das, W/O Lt. Nepal Das,
R/O A.D. Nagar Surya Para, PO: A.D. Nagar, Agartala.
6. Sri Pradip Biswas, S/O Sudhir Biswas, R/O Rampur,
Gangail Road, PO: Ramnagar, Agartala, West Tripura.
7. Sri Biswajit Debbarma, S/O-Lt. Jamini Kumar Debbarma,
R/O Old Kalibari Lane, Krishnagar, Agartala.
8. Smt. Sabitri Das, W/O Ratan Biswas, R/O-Hapania Madhya Para,
South Badharghat, PO: ONGC, West Tripura.
9. Sri Sudip Das, S/O-Lt. Narendra Ch. Das, R/O- Border Rampur,
Agartala West Tripura.
10. Smt. Mithu Deb Chowhan, W/O- Dipak Chowhan, Kalitilla,
R/O Bhattapukur, North Badharghat, Agartala, West Tripura.
11. Smt. Smriti Das (Deb), W/o-Lt. Prabhas Das,
R/O-Vidyasagar Palli, PO:I.C. Nagar, Amtali, West Tripura.

12. Sri Satya Narayan Sutradhar, S/O-Lt. Amulya Ch. Sutradhar,
R/O- Joynagar, Dashamighat, Agartala, West Tripura.
13. Sri Sridham Acharjee, S/O-Lt. Nani Gopal Acharjee,
R/O Pratapghar, PO: Pratapghar, Agartala, West Tripura.
14. Smt. Sarupa Sarkar, D/O- Kunja Mohan Sarkar,
R/O- Baidyermura, PO: Kemtali, Melaghar, Sepahijala Tripura.
15. Sri Narayan Ch. Deb, S/O-Milan Ch. Deb,
R/O- Paschim Bhubanban, Agartala, West Tripura.
16. Sri Amritlal Das, S/O- Amulya Ch. Das,
R/O-Hapania Durga Para, P.O: ONGC, West Tripura.
17. Sri Utpal Sarkar, S/O- Jitendra Sarkar,
R/O-Haripur, Muchitilla, PO: I.C. Nagar, West Tripura.
18. Smt. Suchitra Rani Das, W/O- Gakul Das,
R/O-East Barjala, Lichubagan, Agartala West Tripura.
19. Sri Shyamal Ch. Das, S/O- Murari Mohan Das,
R/O- Howaibari, PO: Twichindrai, Teliamura, Khowai Tripura.
20. Sri Biswajit Roy Chowdhury, S/O- Ram Gopal Chowdhury,
R/O Kalitilla-Bhattapukur, Agartala West Tripura.
21. Sri Ashim Saha, S/O-Lt. Sailen Saha, R/O-Ranjit Nagar,
PO: Ramnagar, Agartala, West Tripura.
22. Smt. Aparna Rani Shil, D/O- Tarapada Shil,
R/O- East Champamura, PO: Old Agartala, West Tripura.
23. Sri Pradip Debnath, S/O-Lt. Birendra Debnath,
R/O- Noabadi, PO: Birendra Nagar, Jirania, West Tripura.
24. Smt. Sipra Saha (Poddar), W/O- Lt. Sankar Podder,
R/O- Noagaon, Krishnagar, East-Agartala, West Tripura.
25. Smt. Bandana Rani Ghosh, W/O- Manik Chakraborty,
R/O-Khash Madhupur, Amtali, West Tripura.
26. Smt. Tanuka Shil, D/O-Matilal Shil, R/O- Bhati-Abhoynagar,
Agartala, West Tripura.
27. Smt. Padma Rani Deb, W/O- Lt. Nepal Ch. Deb,
R/O-Battala, PO: Agartala, West Tripura.
28. Smt. Anima Mukharjee (Sinha), W/O-Ranjan Kr. Sinha,
R/O-Purba Dukli, East Pratapgarh, West Tripura, Agartala.
29. Smt. Matali Begen, D/O-Md. Ayet Ali,
R/O, Gangail Road, Ramnagar, Agartala, West Tripura.

30. Smt. Manika Das, W/O-Ajit Kumar Das,
R/O- South Badharghat, Ramthakur Para,
PO: Chari Para, West Tripura.
31. Sri Nitai Ch. Roy, S/O-Lt. Mangal Ch. Roy,
R/O-Roy Colony, PO:-Amtali, West Tripura.
32. Sri Sudarshan Deb, S/O- Sulkumar Deb,
R/O- Vidyasagar Palli, IC. Nagar, West Tripura.
33. Sri Jayanta Bhowmik, S/O-Ashit Bhowmik,
R/O-R.K. Nagar, Sukanta Palli, PO: Khash Noagaon,
Bodhjunnagar, West Tripura.
34. Sri Ranendra Debbarma, S/O- Sachindra Debbarma,
R/O-Belbari, PO: Champaknagar, West Tripura.
35. Sri Sankar Das, S/O- Madhusudan Das, R/O- Shanmura,
PO: Lankamura, Agartala, West Tripura.
36. Sri Biplab Acharjee, S/O-Bimal Kanti Acharjee,
R/O- Sonatala, PO: Sonatala, Khowai Tripura.
37. Sri Nani Gopal Acharjee, R/O-Madhya Pratapgarh,
West Tripura, Agartala.

.....Respondent(s).

Along With

WA No.120 of 2022

1. The State of Tripura, to be represented by
the Secretary, Health Department, Govt.of Tripura,
New Capital Complex, New Secretariat Building,
Agartala, West Tripura,
PIN 799001.
2. The Director of Health Services, Govt. of Tripura,
P.N. Complex, Agartala, West Tripura.
3. The Secretary, Finance Department, Govt. of Tripura,
New Capital Complex, New Secretariat Building,
Agartala, West Tripura, PIN-799001.

..... Appellant(s).

Versus

1. Sri Indrajit Debnath, S/o- Lt. Bagaban Chandra Debnath
Vill:- Gurkha Basti, P.O- Kunjaban. Agartala, West Tripura,
PIN-799006. Age-49 years.
2. Sri Sukanta Saha, S/o-Lt. Manik Lal Saha,
Vill: Nripendra Nagar, P.O-Mahuya Milin Colony,
P.S- Birganj, Gomati Tripura, Pin-799101, Age-35 years.
3. Sri Mukta Lal Das, S/o-Lt. Baishista Das,
Vill+P.O- Bampur, P.S- Birganj Gomati Tripura,

PIN-799101, Age 48 years.

4. Sri Litan Chakraborty, S/O-Paresh Chakraborty,
Vill:- TRTC Para P.O-Ambassa, Dhalai Tripura,
Pin:-799289, Age-32 years.
5. Sukhendu Paul, S/O-Sukesh Paul, Vill:-North Fulbari,
P.O Premtala, P.S-Churaibari, North Tripura,
Pin:-799262, Age-32 years.
6. Arijit Deb, S/O-Lt. Kumud Deb, Vill:-Dharmanagar,
P.O & P.S-Dharmanagar, Pin:-799250,
Age-43 years, North Tripura.
7. Mithun Tripura, S/O- Bathaya Tripura, Vill-Bagmara,
P.O Bishnupur, P.S-Manubankul, Sabroom,
South Tripura, Pin: 799143, Age-31 years.
8. Rajesh Kumar Shil, S/O- Milan Chandra Shil,
Vill:-South Jolaibari, P.O-Jolaibari, P.S- Baikhora,
Santirbazar, South Tripura, Pin:-799141, Age-32 years.
9. Mrs. Adhirang Tripura, W/O- Chanta Kumar Tripura,
Vill-East Sabroom, P.O-Baishnabpur, P.S-Sabroom,
District:- South Tripura, Pin-799145, Age-32 years.
10. Biswajit Dey, S/O-Raj Kumar Dey, Vill:-West Harina,
P.O.-Harina Bazar, P.S.-Sabroom, South Tripura,
Pin:-799145, Age-40 years.
11. Ananda Chakma S/O Kulaksha Moni Chakma
Vill+PO-South Dhalai Charra, P.S.-Pecharthal,
Unokoti Tripura, Pin:-799563, Age-40 years.
12. Dasari Reang, S/O- Lt. Upendra Reang, Vill:- Burithai Bari,
P.O-Mahuamilan, P.S.-Birganj Amarpur,
Gomati Tripura Pin:799101, Age-41 years.
13. Mrs. Priti Debnath, W/O-Lt. Sachindra Debnath,
Vill:- West Malbasa, P.O-Malbasa, P.S.-Birganj,
Amarpur, Gomati Tripura, Pin:-799101, Age-49 years.
14. Naba Kishore Jamatia, S/o-Lt. Jagat Sadhan Jamatia,
Vill: 2 No. Malbasa P.O-Malbasa,
P.S.-Birganj, Amarpur, Gomati Tripura,
Pin:-799101, Age-33 years.
15. Parimal Biwas, S/O-Lt. Sashi Mohan Biswas,
Vill-Nripendra Colony, (Thakchara) P.O-Mahuya Milin Coloni,
P.S. Birganj Gomati Tripura, Pin-799101, Age-45 years.
16. Mrs. Anuradha Acharjee, W/O-Lt. Rati Acharjee,
Vill: Rangamati, P.O-Rangamati, P.S.-Birganj, Amarpur,
Gomati, Tripura, Pin:-799101, Age-39 years.

17. Haradhan Nandi, S/O-Manoranjana Nandi, Vill:-Sonapur, P.O-Barpathari,P.S.- P.R. Bari, Belonia, South Tripura Pin 799156, Age-44 years.
18. Pintu Das, S/O- Krishna Das, Vill:-Rajnagar, P.O-Rajnagar, P.S.-P.R. Bari, Belonia South Tripura, Pin-799150, Age-34 years.
19. Mrs. Rekha Debnath. W/O-Nirmal Debnath, Vill:-Betaga Pul Para, P.O-Betaga, P.S.-Santirbazar, South Tripura, Pin: 799144, Age-47 years.
20. Barna Chandra Tripura, S/O-Sambadhan Tripura, Vill: Surjya Kumar Para, P.O-Ramraibari, P.S.-Baikhora, Santirbazar, South Tripura, Pin:-799141, Age-33 years.
21. Mrs. Archana Rudra Paul. W/O-Lt. Subash Rudra Paul, Vill:-Ambasa Colony, P.O & P.S-Ambasa, Dhalai Tripura, Pin: 799289, Age-46 years.
22. Sujit Sarkar, S/O-Makhan Lal Sarkar, Vill:-North Nali Chara, P.O-Kulai. P.S-Ambasa, Dhalai, Tripura. Pin: 799204, Age-32 years.
23. Sanjib Paul, S/O-Lt. Sukhen Paul, Vill:-East Nali Chara, P.O-Kulai, P.S-Ambassa, Dhalai, Tripura, Pin:-799204, Age-37 years.
24. Sachindra Tripura, S/O-Laban Chandra Tripura, Vill: Chatakchari, P.O-Sonai Bazar, P.S-Sabroom, South Tripura, Pin: 799145, Age - 43 years.
25. Sanjoy Debnath, S/O-Haralal Debnath, Vill:-Rupaichari, P.O-Rupaichari, P.S-Sabroom, South Tripura, Pin:- 799145, Age-38 years
26. Dipak Debnath, S/O-Lt. Jaharlal Debnath, Vill:-South BhuraTali, P.O-Fulchari, P.S-Manubazar Sabroom, South Tripura, Pin:-799143, Age -40 years.
27. Mrs. Sujan Mala Tripura, W/O.-Bhagyajoy Tripura, Vill: Purba Manubankul, P.O-Bishnupur, P.S-Sabroom, South Tripura, Pin:-799145. Age - 41 years.
28. Gangaram Ochai, S/O. - Ramdhan Ochai, Vill:-Ratanpur, P.O-Ratanpur, P.S. Belonia, South Tripura, Pin:- 799155, Age-45 years
29. Kishan Ochai, S/O-Krishna Kumar Ochai, Vill:- Ratanpur P.O-Ratanpur, P.S-Belonia, South Tripura, Pin:-799155, Age-41 years
30. Biswajit Tripura, S/O. Khiranta Tripura, Vill:-South Sonaichari P.O. - Sonaichari, P.S-Belonia, South Tripura, Pin: 799155, Age-33 years.
31. Mrs. Sevika Saha, W/O. Biplab Saha, Vill:- South Chelagang, P.O.- Chelagang, Amarpur, P.S- Natunbazar, Amarpur, Gomati Tripura, Pin:- 799101, Age- 39 years

32. Chandan Chakraborty, S/O-Manindra Chakraborty, Vill: Thakurpalli, P.O & P.S-Sabroom, South Tripura, Pin: 799145, Age-45 years.
33. Rati Bhushan Tripura, S/O Basistha Tripura, Vill: Bhubandra roaja Para, P.O & P.S-Ganganagar, Dhalai Tripura, Pin:-799289, Age - 40 years
34. Hero Mohan Tripura, S/O-Uridi Tripura, Vill:-Haradas Para, P.O-Bwiragi Dukan, P.S-Natun Bazar Amarpur Gomati Tripura, Pin:-799104, Age-42 years
35. Mrs. Mani Bala Karmakar, W/O-Haradhan Das, Vill.+P.O Jatanbari, P.S- Natun Bazar, Amarpur, Gomati Tripura, Pin: 799104, Age-48 years
36. Subrata Debnath, S/O-Ranabir Debnath, Vill:-Uttar Ekchuri Bangali Para, P.O- Jatanbari, P.S-Natunbazar, Amarpur, Gomati Tripura, Pin:-799104, Age-31 years
37. Lal Mohan Banik, S/O-Lt. Maran Chandra Banik, Vill +P.O +P.S-Natun Bazar Amarpur, Gomati Tripura, Pin:-799104, Age 46 years
38. Pulak Muhuri, S/O-Gopal Muhuri, Vill+ P.O- Debipur, P.S- Belonia, South Tripura, Pin:-799155, Age-37 years
39. Saijay Ram Reang, S/O-Lt. Jainya Ram Reang. Vill Uriacherra Damchara, P.O & P.S- Dhamchara, Panisagar, North Tripura, Pin:-799256. Age-41 years
40. Mrs. Sushama Sinha, D/O-Pratap Sinha, Vill + P.O Guldharpur, P.S- Kailasahar, Unakoti Tripura, Pin:-799279, Age-38 years
41. Ranjan Sinha, S/O-Giridhari Sinha, Vill-P.O- Fultali, P.S Kailasahar, Unakoti Tripura, Pin:-799280, Age-32 years
42. Tutan Singha, S/O-Dhiren Singha, Vill+P.O- Bijohnagar,P.S- Sabroom, South Tripura, Pin:-799145. Age-30 years
43. Pradip Malakar, S/O-Khuka Malakar, Vill-Singbil, P.O Fultali, P.S-Kailasahar, Unakoti Tripura, Pin:-799280, Age - 39 years
44. Swapan Debbarma, S/O-Biswa Kumar Debbarma, Vill- Pancham Nagar, P.O- Dhanbilash, Age - 32 years, Unakoti Tripura.
45. Langarril Halam, S/O-Khumdaiso Halam, Vill Khatyachara, P.O-Balichara (Churaibari) North Tripura, Pin: 799262, Age- 33 years
46. Babuchan Chakma, S/O-Judda Kumar Chakma, Vill Nalkata, P.O- Nalkata (Pecharthal) P.S- Pecharthal, Unakoti Tripura, Pin:-799263, Age - 47 years.
47. Mrs. Rinku Urang, D/O- Budhu Urang, Vill+P.O Golakpur,P.S-Kailasahar, Unakoti Tripura, Pin:-799277, Age -43 years
48. Kartik Das, S/O Shibendra Kumar Das, Vill-North Kacharghat K/S P.O+P.S- Kailasahar, Unakoti Tripura, Pin: 799277, Age-42 years

49. Tokan Lal Chakraborty, S/O. Satyaranjan Chakraborty, Vill P.O- Srirampur, P.S- Kailasahar. Unakoti Tripura, Pin: 799277, Age-45 years.
50. Mrs. Pancha Bala Tripura, W/O. - Ajit Debbarma, Vill Saida cherra, P.O- Rajkandi, P.S-Fotikroy, Unakoti Tripura, Age -43 years
51. Balendra Debbarma, S/O-Lt. Lal Mohan Debbarma, Vill-P.O- Dimatali, P.S- P.R.bari, Belonia, South Tripura, Pin: 799155. Age - 44 years
52. Sachindra Reang, S/O-Lt. Dhsni Rsm Reang, Vill+P.O Sakhan Sekhmun, P.S- Ananda Bazar, North Tripura, Age - 45 years
53. Mrs. Denraihai Halam, W/O-Changtinjoy Halam, Vill Bhati Sailen Bari P.O- North Panisagar, P.S-Panisagar, North Tripura, Pin:-799260, Age - 35 years
54. Kajal Shil, D/O-Sailendra Shil, Vill+P.O-North Padmabill, P.S-Panisagar, North Tripura, Pin:-799260, Age. 37 years
55. Uttam Debbarma, S/O. Lt. Rajendra Debbarma, Vill-South Padmabill, P.O- Padmabill, P.S-Panisagar, Dharmanagar, North Tripura, Pin:-799260, Age- Years
56. Kali Krishna Dey, S/O- Lt. Sridam Dey. Vill-North Bhuratali, P.O-Bhuratali, P.S-Manubazar, South Tripura, Pin: 799143, Age-44 years
57. Mrs. Bappi Roy (Debnath), W/O- Monoranjana Debnath, Vill- North Bhuratali, P.O-Bhuratali, P.S-Manubazar, South Tripura, Pin:-799143, Age-43 years
58. Mrs. Sarbanghi Halam, D/O-Jambiring Halam, Vill Padmabill (Duganga) P.O- Indurail, Panisagar, Dharmanaga, North Tripura, Age - 32 years
59. Mrs. Sorboni Reang, W/O-Polomjoy Reang, Vill Chhimlung. P.O-Varghmin, P.S-Banghmun, Age-35 years, North Tripura.
60. Ratan Rabi Das, S/O-Budhaa Rabi Das, Vill-Halal Charra, P.O-Kailasahar, Unakoti Tripura, Pin:-799277, Age-35 years.
61. Narayan Sarkar, S/O-Krishna Pada Sarkar, Vill:-Narayan Pur. P.O+P.S- Pecharthal, Age-44 years, Unakoti Tripura.
62. Dinen Babu Debbarma, S/O-Sudhonnya Debbarma, Vill Pancham Nagar, P.O- Dhanbilash, P.S-Kailasahar, Unakoti Tripura, Pin:-799280, Age - 37 years
63. Mrs. Tirtharani Debbarma, W/O-Birabasu Debbarma, Vill- Saidacharra, P.O- Rajkadi, P.S-Fatikroy, Age - 46 years, Unakoti Tripura.
64. Bhanu Kumar Debnath, S/O-Indra Mohan Debnath, Vill-79 Tilla, Sarat Palli, Kunjaban, Agartala, West Tripura, Age - 48 years
65. Krishna Gopal Das, S/O- Lt. Binode Bihari Das, Vill Sukanta Palli, PS+ PO- Manubazar, Dist-South Tripura, Pin: 799143, Age-49 years
66. Bina Sinha, W/o-Kamal Kanti Sinha, Vill+PO-Jarailtali, Dist- Unakoti, Tripura, Pin-799279, Age - 48 years

.....Respondent(s).

For Appellant(s) : Mr. Kohinoor N. Bhattacharyya, G.A.
For Respondent(s) : Mr. P. Roy Barman, Senior Advocate.
: Mr. Kawsik Nath, Advocate.
Date of hearing
& delivery of judgment : 08.02.2024
Whether fit for reporting : No.

_B_E_F_O_R_E_

HON'BLE MR. JUSTICE ARINDAM LODH
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

[1] By means of filing the present intra court appeals the State-appellants have challenged the following directions passed by the learned Single Judge in WP(C) No.181 of 2021 and other connected writ petitions:

“
Thus, the Government is under constitutional duty to consider the absorption of the petitioners after creation of posts of GDA in the regular establishment. Exercise of creation of posts shall be completed within six months from today as the petitioners are discharging duties of GDAs. On survey, it has appeared that those assignments are perennial in nature, not a stop-gap mechanism. The enhancement of the wages as directed above shall be made within a period of three months from the day when a copy of this judgment will be made available to the respondents.

As such, this court cannot pass the similar direction for regularization. However, considering the fact that the petitioners are working for about 11 years and discharging all the duties and responsibilities of a regular GDA (Grade-IV), the government shall take that initiative for creation of equal number of posts and consider absorbing the petitioners on assessment of their performance within a period of three months from the day of creation of the posts, as aforementioned. It is ordered accordingly.

..... ”

[2] We have heard Mr. Kohinoor N. Bhattacharyya, learned Govt. Advocate appearing for the State-appellants and Mr. P. Roy Barman, learned Senior Counsel assisted by Mr. Kawsik Nath, learned counsel appearing on behalf of the writ-petitioners/respondents.

[3] At the very outset, Mr. Bhattacharyya, learned G.A. has limited his argument to the direction for creation of posts by the Government within a period of six months from the date of the judgment passed by the learned Single Judge. However, Mr. Bhattacharyya, learned, G.A. has not touched other directions passed by this Court in the said judgment.

[4] Mr. Roy Barman, learned Sr. Counsel has submitted that the observation of the learned Single Judge of this Court that the post of GDA is a perennial in nature and considering the requirement of GDAs throughout the State, it is the obligation of the Government to create 416 posts which were originally created on daily rated basis.

[5] We have considered the submissions of the learned G.A. appearing for State-appellants. We are of the opinion that the judgment passed by the learned Single Judge may be modified to the extent of the direction that the Government is to create posts within six months for the purpose of regularization and absorption of the respondents- writ petitioners. Accordingly, the direction passed by learned Single Judge to the extent as indicated above is set aside because it is settled proposition of law that a Court has no power to direct the Government to create posts. It is absolutely within the domain of the Government. The Court has no experience or expertise to determine the requirements of the posts to be created by the Government.

[6] Another aspect is necessary to be considered in the context of the case that creation of posts is always to be considered on the aspect of financial position of the State Government. Keeping this position of law apart, it is also settled that regularization or absorption is not a matter of right, but it is a right to be considered by the employer, herein the Government.

[7] Accordingly, this portion of the judgment, '*to the extent of the direction of creation of posts within six months from the date of passing of the judgment*', is set aside and quashed. The direction for consideration of the creation of posts and absorption of the appellants is left open to the Government.

In terms of the above observations and direction, the instant appeals are partly allowed and disposed of.

Interim order staying the operation of judgment and order dated 25.11.2022 stands vacated. Pending application(s), if any, stands disposed.

(S. DATTA PURKAYASTHA, J)

(ARINDAM LODH, J)



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