

**HIGH COURT OF TRIPURA
AGARTALA**

**I.A. No.01/2024 in W.A. No.107/2024
Along with
W.A. No.107/2024**

Shri Sushanta Kumar Nath, S/O. Late Sukhomay Nath, of Laxmipur, P.O.-
Dasda Bazar, P.S.-Kanchanpur, North Tripura District, Tripura.
..... Appellant/applicant(s).

V E R S U S

1. The State of Tripura, represented by the Principal Secretary, Department of Revenue, New Capital Complex, Agartala, Tripura (W), PIN-799010.
2. The District Magistrate & Collector, North Tripura District, Dharmanagar, Tripura.
.....Respondent(s).

For Applicant/Appellant(s) : Mr. Samar Das, Advocate.

For Respondent(s) : Mr. Kohinoor N Bhattacharyya, G.A.

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

Order

01/10/2024

I.A. No.01/2024 in W.A. No.107/2024:

Heard Mr. Samar Das, learned counsel appearing for the appellant/
applicant and Mr. Kohinoor N Bhattacharyya, learned Government Advocate
appearing for the respondents.

The appeal suffers from a delay of 46 days for condonation of
which I.A. No.01 of 2024 has been preferred.

Learned counsel for the appellant/applicant submits that petitioner
is a Group-D employee engaged as an Acting Driver and is not well conversant
with the procedure for filing an appeal before this Court on dismissal of his writ
petition. Delay, if any, was occasioned due to obtaining of certified copy of the
impugned order and preparation of the memo of appeal. Moreover, in between,
the State had been stuck with a deluge due to incessant rain in the month of

August, 2024. and as such, delay is not intentional. Therefore, it may be condoned.

Learned counsel for the respondents-State does not have serious objection to the prayer for condonation of delay.

Upon hearing learned counsel for the parties, delay being minor is hereby condoned.

I.A. No.01 of 2024 stands disposed of.

W.A. No.107/2024:

Heard learned counsel for the appellant-petitioner and the respondents-State on the main appeal.

2. Petitioner approached this Court with a prayer to direct the respondents for giving promotion to the post of Driver (Group-C) and for giving financial benefits w.e.f. 01.01.2010.

3. As per the averments made by the writ petitioner, he was initially appointed on 30.05.2006 as a Peon (Group-D). Since 01.01.2010 he has been made to work as an Acting Driver. Petitioner successfully qualified the practical driving test. The list forwarded by the Transport Department dated 19.08.2022 contains the name of the petitioner. However, since promotion was not being given, he has approached this Court in WP(C) No.207 of 2024. The learned Writ Court, however, did not find any merit in the writ petition since no case of discrimination vis-à-vis any of the juniors of the petitioner in matters of promotion was made out. Therefore, the writ petition was dismissed. Being aggrieved, the writ petitioner is on appeal. Petitioner has also placed reliance upon page-27 of the memo of appeal which is a letter dated 25.07.2023 issued

by the District Magistrate & Collector, North Tripura, Dharmanagar to the Additional Secretary to the Revenue Department, Government of Tripura containing a list of 8(eight) persons who have passed the driving test before the District Level Committee. The department has been requested to take suitable initiatives and action from their end.

4. Learned counsel for the appellant/petitioner submits that the dismissal of the writ petition may come into the way of fair consideration of the case of the petitioner even though otherwise eligible. He, however, does not dispute that no instance of any junior who has been granted promotion has been made out in the writ petition and no such junior has either been impleaded.

5. Learned counsel for the State submits that the impugned judgment does not suffer from any error. Therefore, no interference may be made.

6. Upon hearing learned counsel for the appellant and the State, we are also of the considered view that in the absence of a clear case of discrimination vis-à-vis any junior to the petitioner being made out in the writ petition and in the absence of any junior named as a party-respondent in the writ petition, the whole plea of discrimination falls flat. Merely, coming into the list of drivers who have successfully completed the practical test conducted by the Transport Department does not clothe him with a right of promotion to Group-C post of driver. It is also dependent upon *inter se* seniority and vacancies existing in the department.

7. Therefore, we do not find any error in the impugned judgment. However, the respondents are free to consider the case of the petitioner in any ensuing promotional exercise as per rules and the vacancy.

8. The appeal is, therefore, dismissed with the above observations.
Pending application(s), if any, also stands disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ



Pulak

DIPESH DEB

Digitally signed by DIPESH DEB
Date: 2024.10.03 18:06:55
+05'30'