

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.53 of 2022

1. The State of Tripura,

Represented by the Secretary and Commissioner to the Government of Tripura, Department of Finance, having his office at New Secretariat Complex, Gorkhabasti, Agartala, P.O.- Kunjaban, P.S.- New Capital Complex, Sub-Division:- Sadar, District- West Tripura,

2. The Commissioner & Secretary, Department of Home,

Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti, Agartala, P.O.- Kunjaban, P.S. New Capital Complex, Sub-Division:- Sadar, District:-West Tripura,

3. The Director General of Police,

Government of Tripura, having his office at Police Headquarters, P.O- Agartala, PS- West Tripura, Sub-Division:- Sadar, District:-West Tripura.

4. The Superintendent of Police,

Govt. of Tripura, Belonia, South Tripura.

.....Appellant(s).

Versus

1. Sri Sadhan Datta,

son of Late Jagadish Datta, Resident of Village- I.C. Nagar, Belonia, P.O.- Subhashnagar, P.S. – Belonia, District- South Tripura, PIN – 799155.

.....Respondent(s).

For Appellant(s) : Mr. Saktimoy Chakraborti, Adv. Gen.

For Respondent(s) : Ms. Sujata Deb (Gupta), Advocate.
: Mr. Rajib Nandi, Advocate.

Date of Hearing & Judgment : **24.01.2025**

Whether fit for reporting : **Yes**

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

J U D G M E N T & O R D E R (O R A L)

This is an inter-court appeal preferred by the State of Tripura challenging the legality and validity of the judgment and order dated 31.03.2021, passed by Ld. Single Judge in connection with WP(C) No.1196/2019, titled as *Sri Sadhan Datta Vs. The State of Tripura & 3 Ors.*

2. Having gone through the statements made in the appeal and on consideration of submissions of learned counsel of the parties, it is emerged that the grievance of the petitioner is wrong fixation of his pay scale and consequential benefit of Career Advancement Scheme [for short, CAS] which was introduced under ROP Rules, 1988. The respondent-petitioner [here-in-after referred to as petitioner] was first entered into service on 13.02.1981 in the post of Constable (Unarmed Branch). While he was discharging his duties and responsibilities as Constable, ROP Rules, 1988 was introduced making a provision to grant CAS for those employees who have completed more than 10 years' of service without any promotion. The ROP Rules, 1988 was given effect from 01.01.1986. So, the petitioner had completed his 10 years' of service as Constable on 13.02.1991. The petitioner was given the benefit of CAS-I on 01.02.1999 considering his pay scale as Constable which was fixed at Rs.3200-6030/-. The promotional post of Constable is Head Constable since the petitioner belongs to unarmed branch. The pay scale of Head Constable is Rs.3300-7100/-. The contention of the petitioner is that the benefit of CAS-I ought to have been provided to him considering his pay scale at Rs.3300-7100/- instead of Rs.3200-6030/-. The petitioner submitted representation to the competent authority to rectify this defect and to provide the benefit of CAS-I considering his pay scale at Rs.3300-7100/-, but, it was rejected time and again. Ultimately, the petitioner filed a writ petition as noted earlier.

3. Having heard learned counsel appearing for the parties, learned single judge allowed the writ petition directing the appellant-State to re-fix the pay scale of the petitioner from 01.01.1999. However, arrears of pay shall be fixed till the date preceding three years from the date of institution of the writ petition i.e. 24.09.2019 notionally.

4. Being aggrieved, the State has preferred this instant appeal before this court.

5. We have heard Mr. Kohinoor N. Bhattacharyya, learned G.A. appearing for the appellants and Ms. Sujata Deb (Gupta), learned counsel along with Mr. Rajib Nandi, learned counsel appearing for the respondent-petitioner [here-in-after referred to as petitioner].

6. Mr. Bhattacharyya, learned G.A has submitted that the promotional post of Constable is Naik. Further, the pay scale of both Constable and Naik is same i.e. Rs.3200-6030/-. For that reason the petitioner was extended the benefit of CAS-I considering his pay scale at Rs.3200-6030/-. To substantiate that Naik is the promotional post of Constable, Mr. Bhattacharyya, learned G.A. on being instructed by this court has produced the Recruitment Rules for the post of Naik where it is found that Naik is the promotional post of Constable.

7. We have gone through the Recruitment Rules as well as ROP Rules of 1988, ROP Rules of 1999 and ROP Rules, 2009. *On plain reading of the Recruitment Rules meant for Naik, we find that Naik is the promotional post of Constable who works in the armed branch. In the instant case, the petitioner holds the post of Constable (unarmed) and Head Constable is the promotional post of Constable (unarmed). So, the promotional post of the petitioner as Constable is Head Constable and in that case according to ROP Rules, 1999 the pay scale of Head Constable is Rs.3300-7100/-.* The petitioner completed 10 years' of service as on 13.02.1991. So in terms of ROP Rules, 1999, the petitioner was entitled to CAS-I after completion of 10 years' of service being not promoted to the promotional post of Head Constable prescribing the pay scale of Rs.3300-7100/-.

[Emphasis supplied]

8. According to us, *the appellant-State has committed an error in interpreting that the post of Naik is the promotional post of Constable. The State-respondents have misconstrued that Naik is the promotional post of Constable (armed branch).* The State-respondents have failed to produce any document before us that the petitioner was ever promoted to the post of Naik extending the special

benefit of Rs.120/- as prescribed for Naik under the ROP Rules, 1999. In view of this, there cannot be any hesitation in our mind that the petitioner holding the post of Constable (unarmed), and Head Constable is the promotional post of Constable (unarmed). Since the petitioner was not promoted to the post of Head Constable within the period of 10 years' of his service, he was entitled to first CAS-I in the scale of Rs.3300-7100/-, which is the pay scale of the promotional post of Head Constable. But, it is transpired from the records and admittedly, that the petitioner was provided the benefit of CAS-I considering his pay scale at Rs.3200-6030/-, which was the prescribed pay scale of Constable.

[Emphasis supplied]

9. In view of this, the petitioner was deprived of getting the legitimate pay scale of Rs.3300-7100/- having not promoted to the post of Head Constable within the period of 10 years' of his service. Needless to say, the benefit of CAS-1 has to be provided in the pay scale prescribed for promotional post in case, there is no promotion within 10(ten) years' of one's service.

10. Accordingly, we find merit in the writ petition and uphold the findings and decision of learned single judge allowing the writ petition granting the petitioner the benefit of CAS-I considering the pay scale of the petitioner at Rs.3300-7100/-. The judgment and order dated 31.03.2021, passed by learned single judge in WP(C) No. 1196/2019 stands confirmed.

11. Having held so, the instant appeal being devoid of merit stands dismissed. However, there shall be no order as to costs. Pending application(s), if any, shall also stand disposed of.

(S. DATTA PURKAYASTHA), J

(ARINDAM LODH), J

SATABDI DUTTA

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