

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.257 of 2024

Sri Biplab Kanti Sukla Baidya,
S/o-Late Jogendra Chandra Sukla Baidya,
Resident of Sarat Palli, Dharmanagar, P.O. & P.S.-Dharmanagar, Dist.- North
Tripura, Pin-799250.

....Petitioner(s)

Versus

- 1. The State of Tripura**, represented by the Secretary & Commissioner to the Government of Tripura, Department of Finance, having his office at New Secretariat Complex, Gorkhabasti, Agartala, PO-Kunjaban, PS-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, PO-Kunjaban, PS-New Capital Complex, Sub-Division-Sadar, District-West Tripura.
- 3. The Director General of Police**, Government of Tripura, having his office at Police Headquarters, PO-Agartala, PS-West Agartala, Sub-Division-Agartala, West Tripura.
- 4. The Superintendent of Police (Radio)**, Govt. of Tripura, Tripura, Agartala.
- 5. The Superintendent of Police**, Govt. of Tripura, North Tripura, Dharmanagar.

....Respondent(s)

For the Petitioner(s)	:	Ms. S. Deb(Gupta), Advocate
For the Respondent(s)	:	Mr. D. Sarma, Addl. GA
Date of hearing & delivery of judgment & order	:	18.03.2025
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE ARINDAM LODH
Judgment & Order (Oral)

Heard Ms. S. Deb(Gupta), learned counsel appearing for the petitioner. Also heard Mr. D. Sarma, learned Addl. GA appearing for the respondents-State.

2. By way of filing the present writ petition, the petitioner has prayed for following reliefs:

- “i) Admit this petition of the petitioner and call for records relevant to the subject matter from the custody of the respondents;*
- ii) Issue writ calling upon the respondents and each of them, to showcase as to why a writ of certiorari and/or in the nature thereof, shall not be issued for quashing/setting aside the impugned Departmental Order being No.547 dated 24.05.2001.*
- iii) Issue writ calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for commending/directing them, to fix the petitioner’s pay scale of Rs.3300-7100/-, corresponding to revised scale of Pay Band-2, Rs.5310-24000/- with Grade Pay Rs.2200/- as CAS-I on completion of 12 years of continuous service in the pay scale of Rs.950-2180/- as per ROP 1988 corresponding to pay scale of Rs.3200-6030/- i.e. in 01.01.1999;*
- iv) Issue writ calling upon the respondents and each of them, to showcase as to why a writ petition, for issuance of a Writ of Mandamus directing the respondents, to fix the petitioner’s pay Rs.4200-8650/-, corresponding pay scale of Rs.5700-24000/- with GP of Rs.2800/- as ACP-III as on 01.02.2014 on completion of 25 years of continuous service;*
- v) Issue writ calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for commending/directing them, to make payment of the arrears of salary and allowances (including Special Compensatory Allowances), admissible to him, in tune with the various Orders, referred to hereinbefore;*
- vi) After hearing the parties, be pleased to make the Rule Absolute in terms of ii, iii, iv & v above;*
- vii) Costs of an incidental to this proceeding;*
- viii) Any other relief(s) as to this Hon’ble High Court may deem fit and proper;*

3. Short fact of the case is that the petitioner entered into the service as a Constable under the respondents in the year 1987. During his service, the Government of Tripura introduced ROP Rules, 1999 wherein a provision has been made that if an employee is not given promotion due to stagnation of promotional posts, then he will be granted higher pay scale by way of giving the benefit of CAS. There is also provision that CAS-I will be provided after completion of 10(ten) years of service, if no promotion was given to such an employee. CAS-II will be provided after 7 years and CAS-III will be provided after completion of another 7 years. Under Sub-Rule (vii) of Rule 10 of ROP Rules, 1999, it is clearly provided that *“by way of scale advancement in this*

scheme, the CAS scale can not exceed the promotion scale. (However, CAS scale can become same as promotion scale) ”.

4. It is the case of the petitioner that he completed 10(ten) years of service in the year 1997 without any promotion. In view of this, he was entitled to get the benefit of CAS-I, which will be the same pay scale as that of the promotional pay scale. The promotional post of Constable is Head Constable having the pay scale of Rs.3300-7100/- but the said pay scale was not given to the petitioner. After completion of 10(ten) years of service he was given the same pay scale of Rs.3200-6030/-, which is the pay scale of Constable.

5. However, in the year 2001, the petitioner was promoted to the post of ASI in the pay scale of Rs.4000-7890/- which would be treated as the second consumption of CAS. Thereafter, the respondents introduced Assured Career Progression(for short, ACP) Scheme wherein it is prescribed that after completion of 25 years, an employee will be provided third ACP if promotion is not given to him within this period. It is the case of the petitioner that he was not further promoted to the next higher post within this period of 25 years of service. Therefore, the petitioner was entitled to third ACP in the pay scale of Rs.4200-8650/- which is the next higher pay scale of ASI.

6. Ms. Deb(Gupta), learned counsel appearing for the petitioner has submitted that the petitioner was not given CAS-I in the pay scale of Rs.3300-7100/-, the pay scale, which is equivalent to that of the Head Constable, the promotional post of Constable. Since he was not promoted to the post of Head Constable within 10(ten) years i.e., in the year 1997, he was entitled to CAS-I after completion of 10(ten) years of service as per ROP Rules, 1999. However, the petitioner was given the same pay scale of Rs.3200-6030/- after completion of 10(ten) years of service, which is the same pay scale of Constable. It is further

submitted that when the petitioner was promoted to the post of ASI in the year 2001, he consumed the second CAS. However, he continued his service as an ASI till the date of his retirement, and, before the date of retirement the petitioner completed 25 years of service without any promotion after consumption of CAS-II in the year 2001. When the petitioner was promoted to the post of ASI, the promotional pay scale of ASI was Rs.4000-7890/-. Since the petitioner was not promoted in the next higher post, he was entitled to next higher pay scale i.e. Rs.4200-8650/-.

7. On the other hand, Mr. Sarma, learned Addl. GA has submitted that CAS does not mean the promotional pay scale. The pay scale in such a case would be governed by Annexure-A of ROP Rules, 1999 and accordingly, learned Addl. GA has submitted that the pay scale of Rs.3200-6030/- which was provided to the petitioner after completion of 10(ten) years of service was in accordance with Annexure-A of ROP Rules, 1999.

8. Having heard the arguments advanced by learned counsel appearing for the parties, I have re-visited the ROP Rules, 1999 and particularly, Rule 10 of the said Rules which deals with the “Career Advancement Scheme (Modified) with effect from 01-01-1999”. Sub-Rule (vii) of the proviso of Rule 10 of the ROP Rules, 1999 clearly provides that the CAS scale cannot exceed the promotion scale. It is clarified that, however, CAS scale can become same as promotion scale. Sub-Rule (b) of Rule 10 clearly provides thus:

“(b) The employees entering by direct recruitment in the existing scales no.4 to 10 or revised scale no.5 to 11 or corresponding earlier scale will have 2 scale advancement in next higher scales as per table in Annexure ‘A’ at the end of 10 and 7 years of continuous & satisfactory service in the entry scale and higher scale of promotion/gradation or advancement respectively, as the case may be, to the higher scales unless they get promoted to higher scale before the prescribed period at each stage.”

9. On conjoint reading of the Rule 10 and the Sub-Rules therein and Annexure 'A' of the ROP Rules, 1999, I find that in the ROP Rules, 1999, the pay scale of Constable is Rs.3200-6030/-(revised pay scale under ROP Rules, 1999). Since the petitioner being Constable was not promoted within 10(ten) years of service, according to me, after completion of 10(ten) years of service he would be entitled to next higher pay scale which is prescribed as Rs.3300-7100/- for Head Constable specifically mentioned at Page 71 of ROP Rules, 1999 concerning the "Police Department", Government of Tripura.

10. It is an admitted position that this pay scale of Head Constable has not been given to the petitioner. As such, he will be entitled to pay scale of Rs.3300-7100/-. However, the petitioner was given promotion to the post of ASI in the year 2001. Thus, he consumed the second CAS as per ROP Rules, 1999 on promotion to the post of ASI from its feeder post. The petitioner has completed 25 years of service on 22.11.2012 without next promotion till the date of his retirement. So, he is also entitled to third ACP since by that time ACP scheme was introduced by the State-respondents in the pay scale of Rs.4200-8650/-, corresponding pay scale of Rs.5700-24000/- with GP of Rs.2800/- as ACP-III as on 01.02.2014 as per ROP Rules, 2009.

11. Thus, it is emerged that since the petitioner was not given benefit of higher pay scale of Rs.3300-7100/- as CAS-I after completion of 10(ten) years and ACP-III in the pay scale of Rs.4200-8650/-, corresponding pay scale of Rs.5700-24000/- with GP of Rs.2800/- as per ROP Rules, 2009, he will be entitled to ACP-III as on 21.11.2012 on completion of 25 years of service without promotion after his promotion to the post of ASI in the year 2001.

12. In the light of above discussions and for the reasons recorded herein-above, I direct the respondents to provide the pay scale of Rs.3300-7100/- to

the petitioner as CAS-I on completion of 10(ten) years of service on 21.11.1997 without promotion and ACP-III after completion of 25 years of service in the pay scale of Rs.4200-8650/-, corresponding pay scale of Rs.5700-24000/- with GP of Rs.2800/-, that is, with effect from 21.11.2012.

The respondents are further directed to re-fix the pension of the petitioner in terms of the above directions and the entire exercise shall be completed within a period of 6(six) months from the date of receipt of a copy of this order.

It is made clear that the above financial benefit of providing CAS-I and ACP-III as directed here-in-above shall be fixed notionally.

The instant writ petition is allowed to the extent as indicated here-in-above and thus, disposed of.

JUDGE

Snigdha

**SANJAY
GHOSH**

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SANJAY GHOSH
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