

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.214 of 2025

1. Sri Haripada Das, Son of Late Banamali Das of Cooperative Para, Badharghat, P.S. A.D Nagar, P.O. Siddhi Ashram, Agartala, West Tripura aged about 63 years of age [Ex-Assistant Inspector General of Police (Welfare) Tripura Police]

2. Sri Ananta Das, son of Late Nandalal Das, Vill:-Birojanagar, P.O. & P.S.-Kadamtala, North Tripura, PIN: 799261, aged about 58 years, Presently posted as Assistant Inspector General of Police (Law & Order), Police Head Quarters, Tripura.

3. Shri Nagendra Debbarma, son of late Kusum Debbarma, Khakchang Residential Complex, Nandan Nagar, Agartala, P.O. Bankumari, District: West Tripura, PIN 799006, aged about 62 Years [Ex-Superintendent of Police, Procurement Unit, Tripura Police]

4. Shri Dilip Roy, Commandant CIAT School, KachuCherra, HQ 3rd BN TSR Complex, Ambassa, Dhalai, Tripura, Aged about 57 Years.

.....Petitioner(s)

Versus

1. The State of Tripura, represented by the Commissioner & Secretary to the Government of Tripura, General Administration (Personnel & Training) Department, having his office at Capital Complex, Gorkhabasti, P.O.- Kunjaban, P.S.- East Agartala, Sub-Division - Agartala, District - West Tripura, Pin-799006.

2. The Commissioner & Secretary to the Government of Tripura, General Administration Department (Personnel & Training), as well as the post of Secretary, Government of Tripura, Finance Department, having his office at Capital Complex, Gorkhabasti, P.O.-Kunjaban, P.S.- East Agartala, Sub-Division- Agartala, District - West Tripura, Pin - 799006.

3. The Director General of Police, Tripura having his office at Akhaura Road, P.S. West Agartala, Sub-Division - Sadar, District - West Tripura.

4. The Under Secretary, General Administration (Personnel & Training), Government of Tripura, having his office at Capital Complex, Gorkhabasti, P.O.- Kunjaban, P.S.- East Agartala, Sub-Division - Agartala, District - West Tripura, Pin - 799006.

-----Respondent(s)

For Petitioner(s)	:	Mr. Somik Deb, Sr. Adv. Mr. Pannalal Debbarma, Adv.
For Respondent(s)	:	Mr. Dipankar Sarma, Addl. GA
Date of hearing	:	15.09.2025
Date of delivery of Judgment & Order	:	30.10.2025
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

The present writ petition is filed by the petitioners seeking the following reliefs:

- “(i) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued for directing the respondents, to transmit the records, lying with them, for rendering substantive and conscionable justice to the petitioner(s);**
- (ii) Issue Rule, 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 mandating/directing the respondents, to forthwith repeal/rescind or call call back the impugned order and thereafter create Senior Selection Grade in Tripura Police Service as per direction of the Hon'ble Single Judge and provide all consequential benefit (monetary and physical) with 7% interest, particularly in favour of the petitioner(s) named in WPC 419 of 2021 with effect from 15th December, 2021 as per the prevailing direction of the Hon'ble single judge passed therein;**
- (iii) Call for the records appertaining to this petition;**
- (iv) After hearing the parties, be pleased to make the Rule Absolute in terms of i. to iv. above;**
- (v) Costs of & incidental to this proceedings;**
- (vi) Any other Relief(s) as to this Hon'ble High Court may deem fit and proper;”**

2. Heard Learned Senior Counsel, Mr. Somik Deb assisted by Learned Counsel, Mr. Pannalal Debbarma appearing on behalf of the petitioners. Also heard Learned Addl. GA, Mr. Dipankar Sarma appearing on behalf of the respondents-State.

3. Taking part in the hearing, Learned Senior Counsel for the petitioners drawn the attention of this Court that initially by means of filing a writ petition bearing WP(C) No.419 of 2021, the petitioners who were in the post of TPS, Grade-I prayed for implementation of the decision of the State Government to identify at least 7% of the posts of TPS cadre or more for creating/upgrading as Senior Selection Grade Post in TPS in the line

of TCS cadre, as reflected in the letter of GA(P&T) Department dated 30.03.2007 and to formulate appropriate scheme for minimum two avenues of promotion in Tripura Police Service with appropriate pay scale as per Tripura Civil Service. In the said case, after hearing both the sides, the Learned Single Judge by judgment and order dated 14.09.2021 (*Annexure-1 to the writ petition*) disposed of the same with the following observation:

"22. Having viewed thus and for the reasons stated above, this court directs the respondents to complete the process of implementation of the policy decision of the government creating the grade, namely, 'TPS Senior Selection Grade' keeping in view the observations made by this court here-in-above, particularly, in paras 17, 18 and 19, within a period of 3 (three) months from the date when the respondents shall receive a copy of this order either by the petitioners or from the learned Additional GA."

3.1. Challenging the said judgment and order of the Learned Single Judge, the State-respondents preferred an appeal before a Division Bench of this Court which was numbered as WA No.3 of 2022 (*Annexure-2 to the writ petition*) and the Division Bench after elaborate hearing of both the sides disposed of the appeal with the following observation:

"22. We have given anxious hearing on the subject matter. It appears that the matters in issue are not a new one rather it is pending since 2007. It is also on record that the TCS Officers of the State have given the benefit of SSG to their grade by way of 25th Amendment of Tripura Civil Service Rules 1967 in the year 2005. From the referred communications of the Government, it is apparent on record that the Government in the year 2007, decided to amend the Tripura Police Service Rules, 1967 to provide the benefit of SSG to the TPS Officers. But for some unknown reasons the same benefit could not be extended to the TPS Officers of the State for which the respondent-petitioners were compelled to approach to the High Court seeking relief and accordingly, a direction was given to form a policy. It is the admitted position that the Court cannot direct the State Government to frame a policy or to frame/amend any rule for the benefit of the employees as well as the officers of the Government, but if it is found that serious prejudice is caused, in that case the Court cannot remain as a silent spectator. More interestingly, in pursuance of the judgment and direction of the Hon'ble Single Bench, which is presently under challenge before this Bench, a meeting under the Chair of Chief Secretary of Tripura was held on 30.10.2021 to discuss and decide the

issue regarding creation of one grade in TPS namely "SSG". But in para 3, the Committee referred the observation of 2015 Cadre Review of TPS, PHQ and ultimately came to an observation that no recommendation may be made to create any SSG as a promotion post in TCS in line of TCS Cadre. But the said Committee in para nos.5 and 7 made a different contradictory findings, from which it appears that the matter be remanded back to the State Authority to reconsider and to rethink on the issue for coming to a definite finding regarding the observation made by the Learned Single Bench.

23. Learned Advocate General although referred that the State Cabinet has taken a decision in this regard, but in this regard nothing is apprised to the Court in detail, so, this Court at this stage cannot form any decision on the submission of Learned Advocate General. However, since the formation of rule is the prerogative of the State Executive, so, the matter is left to the discretion of the State Government to take an appropriate decision on the subject matter in issue."

Referring the judgment of the Division Bench of this Court, Learned Senior Counsel drawn the attention of this Court that by the said judgment, the Division Bench of this Court remanded back the matter to the State Government to take an appropriate decision in the light of minutes of the meeting dated 30.10.2021 signed by the Chief Secretary as expeditiously as possible and to communicate the same to the respondent-petitioners i.e. the present petitioners. But, the State authority without implementing the direction of the Division Bench of this Court, by an order dated 09.07.2024 (*Annexure-4 infra to the writ petition*) has disposed of the matter with the observation that "*creation of a new grade namely TPS (SSG) in the TPS Rules like TCS Rules is against the prevailing Government Policy*". Being aggrieved and dissatisfied with the said order dated 09.07.2024, the present writ petition is filed by the petitioners seeking the reliefs as stated above.

3.2. It was further submitted by Learned Senior Counsel for the petitioners that for implementation of the judgment dated

08.04.2024 passed by the Division Bench of this Court in WA No.3 of 2022, the present petitioners submitted representation to the Government but as no action was taken so, the petitioners filed contempt petition before the Division Bench of this Court which was numbered as Cont.Cas(C) No.86 of 2024 and by order dated 27.11.2024, the Division Bench of this Court disposed of the contempt proceeding on the ground of the submissions made by the State-respondents that the respondents-State in compliance of the judgment and order dated 08.04.2024 passed in WA No.3 of 2022, has passed the order dated 09.07.2024, which was duly communicated to the petitioners. The relevant paras of the said order dated 27.11.2024 are reproduced hereunder:

"[4] On the other hand, Mr. D. Sarma, learned Addl. G.A. appearing for the respondent-State submits that in compliance with the order dated 08.04.2024 passed in WA No.03 of 2022, the concerned respondents decided the case of the petitioners and an order was accordingly, passed on 9th July, 2024 and thereafter, vide letters dated 15.07.2024 and 23.07.2024, the same was communicated to the petitioners. He, therefore, urges this Court to close the present contempt case as the order of this Court has already been complied with.

[5] In view of the submissions made at the Bar and on perusal of record, the instant Contempt Petition is closed. However, it is made clear that the petitioners will be at liberty to challenge the order dated, 9th July, 2024 if dissatisfied with the same and it is open for them to take steps in accordance with law, if so advised."

3.3. Referring the judgment and order dated 08.04.2024, it was further submitted by Learned Senior Counsel appearing on behalf of the petitioners that initially regarding the creation of TPS Senior Selection Grade, the Under Secretary, GA(P&T) Department, Government of Tripura had sent one communication to the DGP Tripura on 30.03.2007. For the sake of convenience, the relevant communication dated 30.03.2007 is reproduced hereinbelow:

**"NO.F.10(5)-GA(P&T)/04
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION ON (PERSONNEL & TRAINING)
DEPARTMENT**

Dated, Agartala, the 30th March, 2007

To
The Director General of Police,
Tripura, Agartala.

Subject: Amendment of Tripura Police Service Rules, 1967.

Sir,

I am directed to inform you that it has been decided by the Government to create a new grade, namely "Senior Selection Grade" in the Tripura Police Service, almost in line with that of the T.C.S. The duty posts in the Senior Selection Grade of Tripura Police Service will be 7% of the total Cadre strength.

I would, therefore, request you to kindly initiate a proposal indicating the 7% duty posts in the Senior Selection Grade proposed to be created in Tripura Police Service.

An immediate response is earnestly requested.

Yours faithfully
(A. Debnath)
Under Secretary to the
Government of Tripura."

3.4. Thereafter, the GA(P&T) Department further made one communication to the DGP Tripura on 27.09.2008. The extract of the said communication is also narrated hereinbelow:

**"NO.F.10(5)-GA(P&T)/04
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION ON (PERSONNEL & TRAINING)
DEPARTMENT**

Dated, Agartala, the 27th September, 2008

To
The Director General of Police,
Tripura, Agartala.

Subject: Amendment of Tripura Police Service Rules, 1967.

Sir,

I am directed to this Department's letter of even number dated 30th March, 2007 (copy enclosed for ready reference) on the subject cited above and to state it has been decided by the Government to create a new grade, namely "Senior Selection Grade" in the Tripura Police Service, almost in line with that of the Tripura Civil Service. The duty posts in the Senior Selection Grade of Tripura Police Service will be 7% of the total Cadre strength.

I would, therefore, request you to kindly initiate a proposal indicating the 7% duty posts in the Senior Selection Grade proposed to be created in Tripura Police Service.

An immediate response is earnestly requested.

Yours faithfully
(M.L. Das)
Under Secretary to the
Government of Tripura."

Encl: As stated

3.5. Learned Senior Counsel also submitted that in compliance of the said communication dated 27.09.2008 the authorized officer on behalf of DGP Tripura had made a communication dated 23.10.2008 to the Under Secretary, GA(P&T) Department, Government of Tripura proposing to create 18 numbers of posts towards implementation of the policy decision of the Government considering 7% of the total cadre strength of 262 nos. of TPS Officers. For convenience, the said communication is reproduced hereunder:

**"No.41461/TPS Rules/PHQ.2005
GOVERNMENT OF TRIPURA
OFFICE OF THE DIRECTOR GENERAL OF POLICE
TRIPURA:AGARTALA**

Dated, Agartala, the 23th Oct' 2008

**To,
The Under Secretary,
GA(P&T) Department,
Govt. of Tripura,
A G A R T A L A**

Subject: Amendment of Tripura Police Service Rules, 1967.

Sir,

Kindly refer to your letter No. F.10(5)-GA(P&T)/04, dated 27th September, 2008 on the above noted subject.

On perusal of our record, it is seen that no such correspondence is received at this office. However, there was a proposal from PHQ for creating of Super Selection Grade posts in Tripura Police Service, (10% of the total Cadre strength) vide this office No F.P & A/Genl-I/PHQ/05 346-47 dated 3rd January, 2008. (copy enclosed for ready reference).

The present Cadre strength of Tripura Police Service Officers 262 and 7% of this comes to a total, 18 posts for Senior Selection Grade. This is matching with the total Non-IPS Cadre SP/CO, Level posts available in Police/TSR presently. (Annexure-"A").

In view of this the decision of the State Govt. towards creation of Senior Selection grade in Tripura Police Service against these posts may implemented, similar to Super Selection grade in Tripura Civil Service with parallel Pay Scale.

Yours faithfully

(Arindam Nath)

Encl: As stated

**Asstt. Insp. Genl of Police (HQR)
For Director General of Police Tripura**

VACANCY POSITION OF SP/COMDT. LEVEL OFFICERS OF TRIPURA POLICE AS ON OCTOBER, 2008.

Sl. No.	POSTs	SANCTIONED		POSTED	VACANCY
		CADRE	EX-CADRE		
1.	AIG (Pers)	1	-	-	1
2.	SP (Security)	-	1	1	-
3.	SP (Traffic)	-	1	1	-
4.	CO.CTI	1	-	1	-
5.	CO.BW HG Bn	1	-	-	1
6.	CO.SAF	1	-	-	1
7.	CO. 1 st TSR	1	-	1	-
8.	CO. 2 nd TSR	1	-	1	-
9.	CO. 3 rd TSR	1	-	1	-
10.	CO. 4 th TSR	1	-	1	-
11.	CO. 5 th TSR	1	-	1	-
12.	CO. 6 th TSR	1	-	1	-
13.	CO. 7 th TSR	1	-	1	-
14.	CO. 8 th TSR	1	-	1	-
15.	CO. 9 th TSR	1	-	-	1
16.	CO. 10 th TSR	1	-	1	-
17.	CO. 11 th TSR	1	-	-	1
18.	CO. 12 th TSR	1	-	-	1

3.6. Learned Senior Counsel again referring the judgment and order dated 08.04.2024 submitted that after a long exercise and considering the organizational requirement, the DGP Tripura had proposed to abolish few posts in Grade-I of Tripura Police Service and also proposed for restructuring the posts to meet up the requirement of the Department, which were earmarked in communication dated 20.05.2019 made by the DGP to the respondents-State of Tripura. It was also submitted that in para No.5.1 of the said communication dated 20.05.2019 it appears that 30(thirty) new posts of TPS, SSG were proposed to be created. Furthermore, it was revealed that the duty posts in the SSG, Tripura Police Service would be 7% of the total cadre strength, according to the policy decision of the Government which will be within the proposed 30(thirty) posts. The parameters for considering eligibility for promotion to the post of TPS, SSG were drawn at Para No.7 of the communication dated 20.05.2019

wherein it was proposed that the TCS and TPS Officer who complete five years of service in the TPS, Grade-I would be considered for promotion to TPS, SSG. It was also argued by Learned Senior Counsel that a meeting of the Empowered Committee of the State under the Chairmanship of the then Chief Secretary of Tripura was held on 04.06.2020, wherein the issues were taken up for discussion on various points including proposal for amendment of Tripura Police Service Rules and also the review of pay structure of Tripura Police Service, Grade-I Officers and it was decided that:

"Decision:- (i) It is decided in the meeting that TPS Senior Selection Grade may be created observing all rules and regulations and accordingly necessary posts for this grade will be identified.

(ii) Since, there is bar in promotion of government employees due to pending SLP at Hon'ble Supreme Court regarding reservation policy, no promotion to the next higher post can be considered now. However, government employees may be considered for giving full duty charge to the higher category posts indicated by pay level in the respective service.

(iii) xxx".

Referring the same, Learned Senior Counsel submitted that the high power committee of the State Government on principle decided to create TPS, SSG but no effective step was taken. Learned Senior Counsel further drawn the attention of this Court that in the original writ petition i.e. WP(C) No.419 of 2021 filed by the petitioners, the contesting State-respondents by filing their affidavit in para No.9 mentioned that:

"9. That, in regard to the statements made in paragraph 7 of the writ petition it is stated that the state Government in the GA (P&T) Department has taken a step for this purpose. However, it is a policy decision matter and as such the matter is under process."

3.7. It was also argued that the Learned Single Judge in the original writ petition, on the basis of undertaking of Learned Addl. G.A. disposed of the writ petition with a direction to the State

Authority to complete the process of creation of grade for TPS, SSG within a period of 3(three) months. Thereafter, as per direction of Learned Single Judge, a meeting was chaired by Chief Secretary, Tripura. The minutes of the meeting were annexed by the State-appellants with a copy of affidavit in the writ appeal. Referring the same, Learned Senior Counsel submitted that the decisions taken in the minutes of the meeting are contradictory to each other. Learned Senior Counsel also pointed out that Learned Advocate General at the time of hearing in the said appeal referred Para No.3 of the said minutes of the meeting but Learned Advocate General did not submit anything regarding the last part of Para Nos.5, 6 and 7 of the said minutes of the meeting dated 30.10.2021 wherein the burden was shifted to the shoulder of DGP, Tripura. For the sake of convenience, the entire copy of the said minutes of meeting dated 30.10.2021 is reproduced hereunder:

"MINUTES OF THE MEETING HELD ON 30TH OCTOBER, 2021 AT 11.00 AM I/C WITH CREATION OF ONE GRADE IN TRIPURA POLICE SERVICE NAMELY, SENIOR SELECTION GRADE

Officials present:-

- (i) The Director General of Police, Tripura
- (ii) The Pr. Secretary, GA(P&T) Department
- (iii) The IGP (Admin), Tripura
- (iv) The AIGP (HQ) & (Esst.). Tripura
- (v) The Addl. Secretary, GA (P&T) Deptt

The Chief Secretary, Tripura was on chair.

2. A threadbare discussion was held on the judgment and order of the Hon'ble High Court of Tripura in connection with W.P.(C) No.419 of 2021 wherein the Hon'ble High Court issued a directive to the State Respondent for creation of one grade namely TPS SSG in TPS Rules within a period of 3(three) months from the when the representation received from the petitioner alongwith a copy of the order. During the discussion, the following points were emerged:-

- (i) The Committee examined the decision taken by the Empowered Committee for Coordination and Policy Initiative (ECCPI) and it is observed that a decision has been taken in that meeting towards creation of Tripura Police Service Senior Selection Grade after observing all rules and regulations and to identify the post for this grade.

In the said meeting of ECCPI, there was also a decision for allowing financial incentive to the Government employees holding the higher posts of higher pay level with full duty charge since, there is a bar on promotion of Government employees due to pending SPL before the Hon'ble Supreme Court regarding Reservation Policy. But, recently State Government has framed a Promotion Policy for allowing ad-hoc promotion as one time measure pending finalization of SLP before the Hon'ble Supreme Court of India.

During the discussion in the meeting, the Committee feels that the Empowered Committee for Coordination and Policy Initiative (ECCPI) is not appropriate forum to recommend creation of TPS SSG. Moreover, the said decision of the ECCPI can neither be termed as Government decision nor it is a decision of legislature. Moreover, for cadre review of any service there is a provision of cadre review committee and its specified procedure.

(ii) In the year 2007, there was decision of the Government for creation of TPS SSG in TPS Rules. After that the cadre has been reviewed and enhanced in the year 2010 as per proposal of PHQ. In the said proposal of PHQ reference has not been made for creation of TPS SSG. Though creation of TPS SSG was not considered but cadre review of the TPS Rules was done after the decision during the year 2007.

(iii) It was also discussed in the meeting that during year 2015, for cadre review of TPS, PHQ has viewed as follows "since Police is a uniformed service which reflects on discipline, command and control, it must be ensured that creation of a separate SSG does not affect the command structure of the hierarchy. It may also be noted that TPS officers in Gr-I (after completion of 3 years) and Senior Selection Grade, if created will have to hold the post in the rank of SP only. It is therefore, not recommended to create separate posts of SP/AIG rank (SSG Posts) among the SP rank posts (TPS Gr.I). It is to mention that if District SP posts are generally cadre posts in the IPS and any earmarking of the District SP posts as SSG posts would prevent the posting of TPS Grade-I officers to the post of District SP.

Further, it will also create and issue regarding wearing of proper ranks on the uniform among IPS/TPS officers.

Considering the above, it is not recommended to create any SSG as a promotion posts in TPS inline of TCS Cadre."

(iv) The issue of comparison between the TCS & TPS cadre schedule in the context of creating TPS SSG has been examined and discussed at length. It is observed that TCS & TPS cadre services rules are totally different one. Because, nomenclature and posting are also different. Thus prospect in carrier progression in TCS & TPS are un-comparable. As such, there may not be equity in the two cadre services. Generally, TPS Gr-II officers are posted as SDPO (Sub-Divisional Head) in the Sub-Division, whereas a TCS Gr-II officer is posted as Dy. Collector/BDO etc. Similarly, TPS Gr-I officers are posted as Addl. SP and SP in the District after 3(three) years of service in TPS Gr-I whereas TCS Gr-I officers are posted as SDM in the Sub-Division. And the officers from TCS SSG are being posted as Addl. DM i.e. at district level though it is not independent district charge like a Superintendent of Police of TPS Gr-I. Generally it has been observed that TCS SSG officers are being considered promotion to IAS after 25-30 years or more. At present, there are few officers from 1990 batch of TCS who are yet to get promotion to IAS, whereas, some TPS officers of 1998

batch have already promoted to IPS during the year 2014 and so on.

(v) The cadre review instruction/guideline of the Govt. has been consulted in the meeting. It has been observed that as per guidelines of Cadre Review of Cadre Services Rules, the proposal would be formulated to the extent possible in consultation with the representative of Service Associations. While drafting the proposal, all issues like expected changes in the organizations activities, automation, amendment in the business process, requirement planning, plugging the skill gaps, cadre structure, career progression, financial implications etc. must be analyzed and made part of the proposal. So, DGP, Tripura shall take views of all stakeholders of the Tripura Police Service towards creation of new grade namely TPS SSG in TPS Rules as common interest is involved in expansion of cadre by creating new grade.

(vi) The committee has also opined that some financial benefits may be given to the TPS Gr-I officers if they are not getting any promotion after considerable time to IPS inspite of having all requisite/eligibility for promotion. Matter of provisioning Dynamic Career Progression or MACP may be examined to provide financial benefits to TPS Officers if they are not getting promotion or uplift during service tenure in TPS Gr-I level.

(vii) DGP, Tripura shall identify the posts keeping in view of all contexts of service conditions on analysis of cadre allocation of existing IPS and TPS posts and shall examine the requirement of creating new grade in the TPS Rules. Meeting ended with thanks to all.

Sd/-
Chief Secretary to the
Government of Tripura

3.8. Learned Senior Counsel further submitted that the Division Bench of this Court by the said judgment dated 08.04.2024 (*Annexure-2 to the writ petition*) although asked the State Government to take appropriate decision in the lights of the minutes of the meeting dated 30.10.2021 but no such action was taken by the State-respondents rather the State-respondents passed the impugned order dated 09.07.2024 (*Annexure-4 infra to the writ petition*). In the said order nothing was mentioned regarding compliance of the judgment and order of the Division Bench of this High Court rather in the last part of the order dated 09.07.2024 it is stated that the State authority reiterated the minutes of the early meeting dated 30.10.2021 and subsequent

decision of the Cabinet dated 29.09.2022. But, surprisingly the said decision of the Cabinet was never communicated to the petitioners. Even regarding compliance of the judgment and order of the Division Bench no further decision was taken by the State Government which shows arbitrary action on the part of State-respondents and cannot be legally appreciated. So, Learned Senior Counsel for the petitioners urged for setting aside/quashing the said order dated 09.07.2024 issued by the respondents-authority.

3.9. It was also submitted by Learned Senior Counsel that Hon'ble the Supreme Court of India in **The State of Tripura & Anr. vs. Samudra Debbarma & Ors.**, reported in **2025 SCC OnLine SC 1844** [in Civil Appeal No.4467-4468 of 2023] in para No.4 stated as under:

"4. In all the above matters, the controversy revolves around the abrupt cancellation of the recruitment process of TPS and TCS governed by the respective rules which are *pari materia* to each other. Since the recruitment for the posts of TPS and TCS had commenced and controversy involved is similar, looking into the similitude of the origin and controversies in all the aforesaid appeals, we have proposed to take up all these appeals analogously and the same are being dealt with by this common judgment. Since the appellant in Civil Appeal Nos. 4467-48 and 4469 of 2023 is the State of Tripura and the appellant in Civil Appeal No. 4471 of 2023 is a recruitment candidate, we shall be referring to the candidates collectively as 'Candidates' and the State of Tripura as 'State'."

Referring the same, Learned Senior Counsel submitted that in view of the observation of the Hon'ble Supreme Court of India, the rules governing TCS and TPS cadres are *pari materia* to each other. It was also submitted by Learned Senior Counsel that as alleged in order dated 09.07.2024, the decision of the Cabinet is also subjected to judicial scrutiny in view of the judgment stated above (*supra*). Finally, Learned Senior Counsel urged for allowing

the writ petition filed by the present petitioners by cancelling the said order dated 09.07.2024.

4. On the other hand, Learned Addl. GA appearing on behalf of the State-respondents strongly countered the submissions made by Learned Senior Counsel for the petitioners and drawn the attention of this court that the Division Bench of this Court in the aforementioned judgment dated 08.04.2024 in WA No.3 of 2022 did not issue any direction upon the State Government to implement the direction rather it was directed by the Division Bench of this Court to consider the proposal of the petitioners which has been duly considered by the respondents-State and accordingly, the order has been issued on 09.07.2024. As such, the present writ petition is not maintainable for quashing/setting aside the said order dated 09.07.2024.

4.1. In support of his contention, Learned Addl. GA relied upon one citation of the Hon'ble Supreme Court of India in **Ravikumar Dhansukhlal Maheta & Anr. vs. High Court of Gujarat & Ors.**, reported in **(2024) 11 SCC 424** wherein in para No.80, the Hon'ble Apex Court observed as under:

"80. However, in India, no government servant can claim promotion as their right because the Constitution does not prescribe criteria for filling seats in promotional posts. The legislature or the executive may decide the method for filling vacancies to promotional posts based on the nature of employment and the functions that the candidate will be expected to discharge. The courts cannot sit in review to decide whether the policy adopted for promotion is suited to select the "best candidates", unless on the limited ground where it violates the principle of equal opportunity under Article 16 of the Constitution."

Referring the same, Learned Addl. GA submitted that the subject matter of the present writ petition relates to the policy of the State Government and this Court in exercise of its jurisdiction

under Article 226 of the Constitution of India cannot direct the State Government to form any policy and furthermore the original Writ Court i.e. WP(C) No.419 of 2021 passed by Learned Single Judge and the writ appeal i.e. WA No.3 of 2022 passed by the Division Bench of this court did not issue any direction upon the State Government, rather they asked the State Government to consider the case of the petitioners and that was not the direction. So, the State Government was not bound by that observation. Learned Addl. GA further referred another citation of the Hon'ble Supreme Court of India in **P.U. Joshi & Ors. vs. Accountant General, Ahmedabad & Ors.**, reported in **(2003) 2 SCC 632**, wherein in para No.10, Hon'ble Supreme Court observed as under:

"10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

Referring the same, Learned Addl. GA further submitted that in view of the principle of law laid down by the Hon'ble the Apex Court in the aforementioned case, there is no scope on the part of this Court to interfere with the policy decision of the State, and as such, Learned Addl. GA urged for dismissal of the present writ petition on the ground that the same is not maintainable.

5. I have given anxious hearing of both sides at length and perused the judgment and order passed by Learned Single Judge. I have also perused the judgment and order of the Division Bench of this Court and the references of communications made in the writ petition as well as in the writ appeal and the documents submitted by the petitioners in the present writ petition as well as the counter-affidavit filed by the State-respondents.

6. Here, in the case at hand, it is the stand of the State Government that there is no scope on the part of this Court to issue any direction upon the State authority to form a new policy regarding creation of cadre of TPS, SSG which is exclusively within the executive domain of the State.

7. However, Learned Senior Counsel for the petitioners drawn the attention of this Court that although the Court cannot direct the State authority to form any new policy, but at the same time, the Court also cannot sit idle if the State authority fails to obey the commitment made by them before this Court. Referring the judgment and order dated 14.09.2021 in WP(C) No.419 of 2021, Learned Senior Counsel drawn the attention of this Court that in the said writ petition, Learned Addl. GA specifically submitted

before the Court to allow 6(six) months time to complete the process of implementation of the policy decision regarding creation of new grade of TPS, SSG in the light of decision taken in the meeting of the empowered Committee dated 04.06.2020. In the said meeting it was decided by the authority to create a new grade of TPS, SSG. However, the State authority without complying the direction/observation made by the Learned Single Judge preferred appeal before the Division Bench of this Court and the Division Bench also remanded back the matter to the State Government to take an appropriate decision in the light of the minutes of the meeting dated 30.10.2021 signed by Chief Secretary, Tripura. But, unfortunately no appropriate decision was taken in pursuance of the said minutes of the meeting dated 30.10.2021. In Para No.3 of the said minute, although the State authority gave a different observation, but in Para Nos.5, 6, and 7, certain decisions were taken which were not complied with by the State authority, meaning thereby no decisions were taken by the State authority in respect of Para No.5, 6, and 7 of the said minutes dated 30.10.2021 signed by the State authority, rather the said Para Nos. 5, 6, and 7 were contrary to the earlier para No.4. Learned Senior Counsel also submitted that since from the very beginning, it was the decision of the authority of the State Government to create a new cadre for TPS, SSG, but for certain unknown reasons, without any justified ground or basis, the State authority was not implementing the same. Even after the decision of the writ appeal on 08.04.2024, in spite of the direction of this Court, the State Government did not

take any action and by issuing a new order dated 09.07.2024, which is under challenge, disposed of the matter referring the earlier minutes of the meeting dated 30.10.2021 of the Chief Secretary, Tripura and the decision of the Cabinet dated 29.09.2022, which was arbitrary, inoperative, not binding upon the petitioners, and also total disregard of the direction passed by the Division Bench of this Court in judgment and order dated 08.04.2024 in WA No.3 of 2022.

8. Thus, it appears to this Court that the State authority has taken different stand on different times regarding implementation of the issues which are also contrary to each other and it also appears to this Court that the State authority is not at all interested to implement their own policy, for the reason best known to them because after going through the communications referred in the earlier writ petition and the writ appeal and also going through the annexures submitted in this writ petition it appears that all along the State authority was in a positive mode to consider creation of new cadre of TPS, SSG like TCS, SSG but no conscious decision in this regard was taken. More interestingly, even after the judgment of the Division Bench of this High Court no new decision has taken by the State authority rather by a fresh order dated 09.07.2024 referring the earlier minutes of the meeting dated 30.10.2021 and cabinet decision dated 29.09.2022 they have turned down the issue of the present petitioners, which in my considered view is totally illegal, arbitrary and indifferent attitude on the part of the Government to bypass the earlier judgments of

Learned Single Judge and Division Bench of this Court without issuing any appropriate order on the issue of the present petitioners.

9. It is the settled position of law that the writ Court cannot direct the executive authority to form any policy decision rather it is the executive authority to take appropriate decisions in this regard. But, in the case at hand, it is clear from the references which have been mentioned in this judgment that from the very beginning the respondent authority intended to take some decision regarding creation of new cadre for TPS, SSG but, for any reasons no fruitful development could take place and ultimately, in the meeting under the chair of then Chief Secretary on 30.10.2021, some decisions were taken. However, the points in the minutes of the meeting are contrary to each other. So, considering all the aspects the Division Bench of this High Court, in the writ appeal, remanded back the matter to the Government to take appropriate decision in the light of minutes dated 30.10.2021. But, by issuing subsequent order dated 09.07.2024 (*Annexure-4 infra to the writ petition*), the State-respondents again reiterated the same thing without giving any specific observation regarding the decision of the State Government. Accordingly, contempt was filed against the State-respondents and in the contempt proceeding it was submitted that the State Government issued order dated 09.07.2024 and for that contempt proceeding was closed. But, the said order again has been challenged before this Court in this writ petition on the ground that no observation was made in the said order in the light of the

judgment delivered by Division Bench of this Court which compelled the petitioners to approach this Court for exercising writ jurisdiction. The jurisdiction of the writ Court is limited to the extent of issuing any direction in respect of policy matters. However, if the respondent authority sits over the matter for indefinite period, the Court also cannot remain as a silent spectator.

10. In the result, the writ petition filed by the petitioners is hereby allowed. The memo dated 09.07.2024 (*Annexure-4 infra to the writ petition*) issued by the respondent authority stands set aside. The respondent authority is under obligation in the light of the judgment delivered by the Division Bench of this Court in WA No.3 of 2022 to take appropriate decision so as to address the grievances of the present petitioners and to communicate the same to the petitioners accordingly within a period of 6(six) months from the date of passing of this judgment.

With this observation, the instant writ petition stands disposed of.

Pending application(s), if any, also stands disposed of.

JUDGE

Snigdha

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