

HIGH COURT OF TRIPURA  
\_A\_G\_A\_R\_T\_A\_L\_A\_

WA .No.97 of 2024

Sri Sanjib Karmakar

.....Appellant

\_V\_E\_R\_S\_U\_S\_

The State of Tripura and Others

.....Respondents

|                                                       |   |                                                            |
|-------------------------------------------------------|---|------------------------------------------------------------|
| For Appellant(s)                                      | : | Mr. P. Roy Barman, Sr. Advocate.<br>Mr. D. Paul, Advocate. |
| For Respondent(s)                                     | : | Mr. D. Sarma, Addl. G.A.                                   |
| Date of hearing and delivery<br>of judgment and order | : | 14.05.2025                                                 |
| Whether fit for reporting                             | : | NO                                                         |

HON'BLE MR. JUSTICE T. AMARNATH GOUD  
HON'BLE MR. JUSTICE BISWAJIT PALIT  
\_F\_I\_N\_A\_L\_O\_R\_D\_E\_R\_

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. D. Paul, learned counsel appearing for the appellant also heard Mr. D. Sarma, learned Addl. G.A. appearing for the respondents.

[2] The present writ appeal has been filed under Chapter-VIII, Rule-B(A) of the High Court of Tripura Rules, 2023 read with Article-226 of the Constitution of India against the order dated 04.07.2024 passed in WP(C) No.674 of 2023 by the learned Single Judge.

[3] The facts in brief are that the appellant had filed WP(C)No.674 of 2023 challenging the illegal supersession by his juniors in the matter of promotion to the post of Junior Operator (Control Room) by order dated 30.09.2021, issued by the Additional Secretary & Director of Fire & Emergency Services, Tripura. Even though, admittedly his juniors were promoted by the above mentioned impugned order, dated 30.09.2021, the learned Single Judge dismissed the writ petition filed by the appellant, solely on the ground that the appellant had not submitted his option/willingness for getting such promotion within the provided time period of only one day; even though submission of willingness for getting promotion is not necessary or provided under the concerned Recruitment Rules.

[4] Mr. P. Roy Barman, learned senior counsel assisted by Mr. D. Paul, learned counsel appearing for the appellant has submitted that the learned Single

Judge failed to consider that as per the Recruitment Rules to the post of Junior Operator (Control Room), there is no provision for calling of option/willingness from concerned Firemen and as such, submission of option/willingness is not a condition precedent to come under the zone of consideration for promotion.

[5] It has been contended that the so-called Second Radio Message, dated 17.09.2021 which purportedly extended the cut-off date up to 22.09.2021 was not taken as a defence in any of the pleadings in the earlier round of concerned litigations and the second radio message was not even placed on record before 04.07.2024 and not even referred to in the counter affidavit or annexed therewith. What is more perplexing to notice is that both the radio messages dated 17.09.2021 bear the same file reference thus, clearly giving rise to doubts as to the veracity and authenticity of the second radio message dated 17.09.2021.

[6] The learned Single Judge has failed to appreciate that contention of the State respondents to the effect that not all such eligible candidates are willing to go out of their headquarter after being promoted and prefer to remain in the feeder post of Fireman is absolutely fictional and made-up as the State respondents did not produce any document which shows that any DPC was convened granting promotion to the post of Junior Operator (Control Room) and the promoted candidates refused to accept such promotion. Mere blanket statements without any substantial evidence ought not to have been accepted by the learned Single Judge.

[7] It has been further contended that by radio message dated 17.09.2021 written option/willingness was invited by the Director of Fire & Emergency Services, Tripura from all concerned Firemen to be communicated back within 18.09.2021, thus providing only one day time. However, the appellant was informed by his superiors that he need not submit his option/willingness as he had already submitted in the year 2013 and the same was pending for consideration.

[8] In the impugned order dated 29.09.2023 it was specifically stated that the willingness communicated by the appellant for promotion to the post of Junior Operator (Control Room), in 2013 was not unqualified and apparently, during the period from July 2013 to August 2021, no promotion had taken place from fireman to the post of Junior Operator (Control Room). But, the reason for not granting such promotion as reflected from the counter-affidavit filed, the Under Secretary,

Home Department, Government of Tripura was that in the year 2013, State Government in Home (Fire & Emergency Services) Department could not fill up 10 (ten) vacant posts of Junior Operator (Control Room) because of unwillingness of Fireman for getting promotion to the post of Junior Operator (Control Room). But, in reality, the appellant had expressed his willingness to get promotion to the post of Junior Operator (Control Room) back in 2013. Moreover, the State respondents in Radio Message dated 17.09.2021 did not expressly mention that those interested candidates who had already submitted willingness will also have to submit fresh willingness.

[9] Learned Addl. G.A. appearing for the respondents has submitted that basing on the aforesaid second radio message dated 17.09.2021, it was contended on behalf of the State-respondents that the appellant's contention, that radio message dated 17.09.2021 required submission of option only within one day by 18.09.2021 is not correct since, by the second wireless message of the same date the sending of option by the eligible Firemen was modified up to 22.09.2021 instead of 18.09.2021 and all those who exercised options by 22.09.2021 were taken into consideration for promotion.

[10] In view of above discussions, this Court is of the view that the appellant was not promoted to the post of Junior Operator (Control Room) though he had shown his willingness earlier. But at the time of promotion, his juniors were promoted to the post as stated above. This Court at the time of interacting with the learned counsel appearing for the State-respondent asked a question regarding communication of the radio message to the appellant. To which, learned Addl. G.A. appearing for the respondent-State has no answer. The radio message basing on which promotions were given has not been communicated to the appellant and to this count no documents were placed on record to show that the communication was made to the appellant. It is crystal clear that when the radio message was issued that was not put to the notice to the employee concerned. The same amounts to violation of principle of natural justice.

[11] In that view of the matter, the present writ appeal is liable to be allowed and the same is accordingly allowed by setting aside the order in WP(C) No.674 of 2023 dated 04.07.2024 and consequentially directing the respondents to

consider the case of the petitioner and declare the promotion in favour of the petitioner as per his entitlement. As a sequel, miscellaneous application, pending if any, shall stand closed

**B. PALIT, J**

**T. AMARNATH GOUD, J**

*A. Ghosh*

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