

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.637 of 2024

Sri Jatan Tripura, S/o-Sri Sunil Tripura, Village Debdura Coloney, P.O.-
Anandapur, P.S.-P.R. Bari, Belonia, District-South Tripura.

...Petitioner(s)

VERSUS

1. The State of Tripura, represented by the Secretary, Education Deptt.
Govt. of Tripura, Civil Secretariat, New Capital Complex, P.S.-N.C.C.,
Agartala, P.O.-Kunjaban, 799010, West Tripura District.

2. The Director of Higher Education, Education Department, Govt. of
Tripura, Agartala, West Tripura.

...Respondent(s)

For the Petitioner(s)	:	Mr. D.C. Roy, Advocate
For the Respondent(s)	:	Mr. M. Debbarma, Addl. GA

HON'BLE MR. JUSTICE ARINDAM LODH

Order

06/01/2025

Heard Mr. D.C. Roy, learned counsel appearing for the petitioner.
Also heard Mr. M. Debbarma, learned Addl. GA appearing for the
respondents-State.

By way of filing the present writ petition, the petitioner has prayed for
consideration of his promotion to the post of Lower Division Clerk under the
Education Department, Govt. of Tripura. The petitioner came up with a writ
petition on earlier occasion which was registered as WP(C) No.513 of 2023
(Annexure-F to the writ petition). The matter was heard by learned Single
Judge of this Court (Aparesh Kumar Singh, CJ). The said writ petition was
disposed of vide order dated 17.08.2023, which is as under:

*“Heard learned counsel for the petitioner and learned counsel for the
State.*

*Petitioner has approached this Court with a grievance that despite having
worked for 15 years on the post of Senior Attendant (Laboratory) (Group-D)
in the Department of Higher Education in Iswar Chandra Vidyasagar
College, Belonia, he has not been granted promotion to the post of Lower
Division Clerk (Group-C), though he has passed-the Madhyamik Pariksha
(Secondary Examination) in 2014 and others who had joined the same post on
the same date, have been granted promotion. Petitioner has made
representation [Annexure-E] for the instant grievances before approaching
this Court.*

Mr. D.C. Roy, learned counsel for the petitioner, submits that at the present stage, it would suffice if a direction is issued upon the respondent No.2-Director of Higher Education to consider and take a decision on the representation of the petitioner in accordance with law.

Mr. Rajib Saha, learned counsel for the respondents, submits that instructions have not been furnished since the matter has been taken up for the first time today. However, if a direction is issued upon the competent authority, he may consider the representation of the petitioner in accordance with law.

Having regard to the facts noted above and the submission of the parties, since the petitioner has already made a representation in relation to his aforesaid grievances before the respondent No.2; at this stage, without getting into the merits of the claim of the petitioner, the writ petition is disposed of with a direction upon the respondent No.2-Director of Higher Education to consider and take a decision on the representation of the petitioner [Annexure-E] within a reasonable time, preferably 8(eight) weeks from the date of receipt of the copy of this order.

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

From the aforesaid order, it is clear that learned Single Judge had directed the respondents to consider the case of the petitioner within a reasonable time, preferably within 8(eight) weeks from the date of the receipt of a copy of that order. The petitioner submitted a representation to the Director of Higher Education, Education Department, Govt. of Tripura enclosing the copy of the order dated 17.08.2023. After receipt of the said order, the Director of Higher Education, Govt. of Tripura had passed an order dated 03.10.2023, which is reproduced hereunder for convenience, in extenso:

**GOVERNMENT OF TRIPURA
DIRECTORATE OF HIGHER EDUCATION**

No.F. 10(876)-DHE/LA/2023/2801

Dated, Agartala the 03/10/2023

ORDER

Whereas, the Hon'ble High Court of Tripura vide Judgment and order dated 17- 08-2023 passed in WP(C) No. 513/2023 had been pleased to direct inter alia as follows:

"Having regard to the facts noted above and the submission of the parties, since the petitioner has already made a representation in relation to his aforesaid grievances before the respondent No.2 at this stage, without getting into the merits of the claim of the petitioner, the writ petition is disposed of with a direction upon the respondent No.2- Director of Higher Education to consider and take a decision on the representation of the petition within a reasonable time, preferably 8(eight) weeks from the date of receipt of the copy of this order"

AND

Whereas, after proper examination to the fact of promotion from the Petitioner existing post i.e. Senior Attendant (Laboratory) (Group-D) to Group-C(L.D Clerk), the Department has observed that there is no provision of direct promotion to Group- C(L.D. Clerk) as per the recruitment rules of L.D Clerk, Group-C under the Education Department issued vide Notification No.F.7 (115)DHE/Estt(NG)/19(Vol.-X) dated 27.10 2021.

AND

Whereas, in the said Recruitment Rules the eligible feeder post has been clearly indicated categorically as "From the post of Group-D(Peon/Class-IV/Night Guard/ Sweeping & Cleaning Assistant).

AND

Whereas, the Petitioner is already holding the post of Senior Attendant(Laboratory) (Group-D). The said post has separate Recruitment Rules and the post of Senior Attendant(Laboratory) is not the feeder post of Lower Division Clerk, Group-"C". As such, the petitioner is not eligible for promotion to the post of Lower Division Clerk, Group-"C" as claimed for.

AND

Whereas, as per the Recruitment Rules for the post of Laboratory Assistant (Group-C) the petitioner is eligible for promotion to this post of Laboratory Assistant (Group-C) as the feeder post of Laboratory Assistant is Senior Attendant (Laboratory) (Group-D).

Whereas, earlier the Department has appointed 44 (forty four) Senior Attendant (Laboratory), Group-D employees including the Petitioner vide this Directorate's Memo. No.F.7(75)-DHE/NG/2000 (Loose) dated 17.06.2008 and later vide this Directorate's order bearing file No.F.7(343)-DHE/NG/2022 dated 13.01.2023, 11(eleven) Senior Attendant(Laboratory), Group-D employees were extended promotion(ad-hoc) to the post of Laboratory Assistant(Group-C) as per the verified vacancy position but at the same time the name of the Petitioner was not recommended by the D.P.C for promotion to the next higher post as it does not come under zone of consideration as per provision.

AND

Whereas, according to the new recruitment policy, the Department has amended the recruitment rules for Group-C (L.D Clerk). Under these amendments, there is no provision for promotion from Senior Attendant (Laboratory), Group-D to Group-C (L.D Clerk).

AND

Now therefore, the Department regrets to allow the prayer of the Petitioner for promotion to the post of Group-C(L.D Clerk) as the Petitioner is holding the post of Senior Attendant(Laboratory), Group-D and as per the existing guidelines laid in the recruitment rules the next promotional post of Senior Attendant(Laboratory), Group-D is Laboratory Assistant (Group-C), instead of L.D. Clerk. As such, there is no scope for promotion from Senior Attendant (Laboratory) to Group-C(L.D Clerk).

-Sd/-

(N.C Sharma)

Director of Higher Education
Tripura

From the aforesaid order, it is crystal clear that there are different recruitment rules for consideration of promotion to the post of Laboratory

Assistant(Group-C) and Lower Division Clerk(for short, LDC). The feeder post for promotion to the post of LDC is Peon/Class-IV/Night Guard/Sweeping and Cleaning Assistant. It is clearly stated in the said order dated 03.10.2023 that the post, the petitioner holds i.e. Senior Attendant (Laboratory)(Group-D) is not the feeder post of LDC. Another aspect also comes to light that Senior Attendant (Laboratory) (Group-D) is the feeder post for promotion to the post of Laboratory Assistant(Group-C). Initially 44 numbers of Senior Attendants (Laboratory) (Group-D) including the petitioner were appointed under memo dated 17/06/2008. Considering the vacancy position, a process for promotion to the post of Laboratory Assistant on ad-hoc basis was initiated by the respondents. The DPC found 11 numbers of vacancies and those vacancies were filled up by eligible Senior Attendants (Laboratory) (Group-D) employees. The name of the petitioner was not considered by DPC for the next higher post i.e. Laboratory Assistant(Group-C) since he did not come within the zone of consideration as per the provision laid down in the recruitment rule. For the aforesaid reasons, the matter of promotion of the petitioner to the post of Laboratory Assistant on ad-hoc basis was not considered.

On an overall consideration of the entire writ petition and the pleadings thereof, I do not find any such ground that the petitioner has successfully made out a case that he has been superseded by any of his juniors holding the post of Senior Assistant (Laboratory)(Group-D). It is settled proposition of law that promotion is not a matter of right but it is a right to be considered by the employer.

At this juncture, Mr. Roy, learned counsel for the petitioner has submitted that he will be able to establish his case by showing that the persons who had been promoted to the post of LDC were similarly situated to the petitioner and, for this reason, he has sought for amendment of the writ petition.

In my opinion, if the petitioner tries to incorporate all these facts, then, it would be better to file a fresh writ petition.

In view of this, I do not find any merit in the present writ petition and the present writ petition accordingly stands dismissed. However, liberty is given to the petitioner to come up with a fresh writ petition, if he is

aggrieved of the respondents in the matter of promotion to the post of either Laboratory Assistant (Group-C) or LDC(Group-C) under the respondents.

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

JUDGE

Snigdha

**SANJAY
GHOSH**

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SANJAY GHOSH
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HIGH COURT OF TRIPURA



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