

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.122 of 2024

Smt. Satarupa Sengupta, Age-36 years, W/O. Sri Maharshi Debnath, Resident of Payaribabur Bagan, Joynagar, Agartala, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, 799001.

..... Appellant(s).

V E R S U S

1. The State of Tripura, represented by the Secretary, General Administration (Personnel & Training) Department, Government of Tripura, New Secretariat Complex, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

2. The Secretary, General Administration (Personnel & Training) Department, Government of Tripura, New Secretariat Complex, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

3. Tripura State Pollution Control Board, a statutory body, under the Department of Science, Technology and Environment, Government of Tripura, represented by Member Secretary, Parivesh Bhawan, Pandit Nehru Complex, Gurkhabasti, P.O.-Kunjaban, P.S.-New Capital Complex, Sub-Division- Sadar, District-West Tripura.

4. The Member Secretary, Tripura State Pollution Control Board, Parivesh Bhawan, Pandit Nehru Complex, Gurkhabasti, P.O.-Kunjaban, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

5. Sri Prakash Paul, S/O. Sri Brajesh Chandra Paul, resident of Chandrapur, P.O.-Reshambagan, P.S.-East Agartala, Agartala, District-West Tripura, PIN-799008.

6. Sri Subrata Majumder, S/O. Lt. Chandan Majumder, resident of Town Indranagar, P.O.-Dhaleswar, Sadar, Agartala, West Tripura, PIN-799007.

.....Respondent(s).

W.A. No.26 of 2025

Gautam Ghosh, Age-36 years, S/O. Lt. Santi Bhushan Ghosh, Resident of North Charilam, P.O.-North Charilam, P.S.-Bishalgarh, District-Sepahijala, Tripura, PIN-799103.

..... Appellant(s).

V E R S U S

1. The State of Tripura, represented by the Secretary, General Administration (Personnel & Training) Department, Government of Tripura, New Secretariat Complex, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

2. The Secretary, General Administration (Personnel & Training) Department, Government of Tripura, New Secretariat Complex, P.O.-Secretariat, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

3. Tripura State Pollution Control Board, a statutory body, under the Department of Science, Technology and Environment, Government of Tripura,

represented by Member Secretary, Parivesh Bhawan, Pandit Nehru Complex, Gurkhabasti, P.O.-Kunjaban, P.S.-New Capital Complex, Sub-Division- Sadar, District-West Tripura.

4. The Member Secretary, Tripura State Pollution Control Board, Parivesh Bhawan, Pandit Nehru Complex, Gurkhabasti, P.O.-Kunjaban, P.S.-New Capital Complex, Sub-Division-Sadar, District-West Tripura.

5. Sri Dipak Rudra Pal, S/O. Sri Subhas Chandra Rudra Pal, resident of South Bank of Amarsagar, P.O. & P.S.-R.K. Pur, Udaipur, District-Gomati, Tripura, PIN-799120.

.....Respondent(s).

For Appellant(s) : Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,
Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : Mr. Somik Deb, Sr. Advocate,
Mr. Mangal Debbarma, Addl. G.A.,
Mr. Ratan Datta, Advocate,
Mr. Kundan Pandey, Advocate,
Mr. Pannalal Debbarma, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

CAV reserved on : **21.08.2025.**

Judgment delivered on : **03.09.2025.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

1) Heard Mr. Purusuttam Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, counsel appearing for the appellants, Mr. Mangal Debbarma, Addl. Government Advocate appearing for the respondents-State, Mr. Ratan Datta, counsel appearing for respondents- Tripura State Pollution Control Board, Mr. Somik Deb, learned senior counsel assisted by Mr. Pannalal Debbarma, counsel and Mr. Kundan Pandey, counsel appearing for the private respondents.

2) In both these appeals, common questions of law and fact arise and so they are being disposed of by this common order.

Background facts

3) An advertisement for filling up 4 (four) posts of Junior Environmental Engineer and 4 (four) posts of Junior Scientist in the Tripura State Pollution Control Board (*hereinafter referred to as "the Board"*) was issued by the Board through notification dt. 06.05.2011.

4) The appellant in W.A.No.26 of 2025 and respondent No.5 therein were called for interviews for post of Junior Scientist and they were selected but appointment letters were issued to them giving them appointment on purely temporary basis.

5) Likewise the appellant in W.A.No.122 of 2024 and respondents No.5 and 6 therein were called for interviews for post of Junior Environmental Engineer and they were selected but appointment letters were issued to them giving them appointment on purely temporary basis.

WP(C) No.654 of 2023.

6) For the post of Junior Scientist, the Board issued a memorandum on 27.12.2022 publishing a Draft Seniority List of Junior Scientists wherein the respondent No.5 in W.A. No.26 of 2025 was placed at Sl. No.2 and the appellant in the said Writ Appeal was placed at Sl.No.1.

7) Feeling aggrieved by his placement at Sl. No.2 of the Draft Seniority List as was noted in the memorandum dt. 27.12.2022, the respondent No.5 in W.A. No.26 of 2025 gave a representation on 24.01.2023, but the same was ignored. On 19.09.2023, the Board issued another memorandum publishing

Final Seniority List of Junior Scientists confirming the Draft Seniority List dt. 27.12.2022.

8) Therefore, the respondent No.5 in W.A. No.26 of 2025 filed WP(C) No.654 of 2023.

WP(C) No.655 of 2023

9) For the post of Junior Environmental Engineer (Group-B), another memorandum dt. 27.12.2022 was issued by the Board publishing a Draft Seniority List of Junior Environmental Engineers whereby the respondent No.5 in Writ Appeal No.122 of 2024 was placed at Sl. No.3 while the respondent No.6 and the appellant in W.A. No.122 of 2024 were placed at Sl. No.1 and 2 respectively.

10) Aggrieved by his placement at Sl. No.3 of the Draft Seniority List in the memorandum dt. 27.12.2022, the respondent No.5 in W.A. No.122 of 2024 gave a representation on 24.01.2023.

11) But ignoring the same, the Member Secretary of the Board issued a memorandum on 19.09.2023 publishing the Final Seniority List of Junior Environmental Engineers of the Board affirming the seniority position as indicated in the memorandum dt. 27.12.2022.

12) The respondent No.5, therefore, filed WP(C) No.655 of 2023.

Contentions of respective parties in W.P.(C) No.654 of 2023 and W.P.(C).No.655 of 2023 before the learned Single Judge.

13) Respondent No.5 in W.A. No.26 of 2025/petitioner in W.P.(C) No.654 of 2023 contended that he was directed to join in post of Junior Scientist by 10.12.2012 in the memorandum dt. 28.11.2012, that he joined on 07.12.2012 and his services were confirmed in the post of Junior Scientist by an

office order dt. 19.10.2015 on the successful completion of his probationary period w.e.f. 07.12.2013.

He contended that under the Right to Information Act, 2005 he applied to the Board for providing him merit list of different categories of candidates who were selected to the post of Junior Scientist in the Board, and on 24.02.2021, a merit list that was prepared for selection to the post of Junior Scientist, was furnished to him which indicates that he was placed at Sl. No.1 of the said merit list and the appellant was placed at Sl. No.2 in the merit list. He contended that in view of his higher placement in the merit list, he should have been shown as senior to the appellant in the seniority list.

14) The appellant in W.A No.26 of 2025/Respondent No.5 in W.P.(C) No.654 of 2023 however contended in the writ petition that the selection committee no doubt conducted an interview, but it did not prepare any merit list.

The appellant also contended that his service was confirmed w.e.f. 05.12.2013 before the date of confirmation of the respondent no.5 on 7.12.2013 and, therefore, he was correctly shown as senior to the respondent No.5 in W.A. No.26 of 2025.

15) The Board filed a counter affidavit stating that the post of Junior Scientist is temporary in nature. It stated that a merit list was prepared by the Selection Committee after the interview was conducted by it and admitted that in that interview, the respondent No.5 in W.A. No.26 of 2025 was at Sl. No.1 and the appellant was at Sl. No.2.

It also stated that both the selected candidates were asked to join by 10.12.2012 if they accepted the offer of appointment, that the respondent

No.5 joined on 07.12.2012 while the appellant joined on 05.12.2012. It also stated that the service of respondent No.5 was confirmed w.e.f. 07.12.2013 while the service of the appellant was confirmed on 05.12.2013.

Reliance was placed by the Board on the Rules made by the Government of Tripura on 18.05.2006 in which proviso to Rule 4 stated that *“where persons are recruited initially on a temporary basis but are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order of merit”*.

But no proceeding of the Board is filed adopting the rules framed by the Government of Tripura for application in the Board for determining seniority.

16) The respondent No.5 in W.A. No.122 of 2024/petitioner in W.P.(C).No.655 of 2023 contended that after his selection as Junior Environmental Engineer by the Interview Committee, he was asked to join by 10.12.2012 by a memorandum dt. 28.11.2012; and he joined in the post of Junior Environmental Engineer on 05.12.2012; and that his services were confirmed in the said post on 19.10.2015 w.e.f. 05.12.2013.

He also contended that he gave a letter on 24.03.2017 to the Chairman of the Board praying for furnishing him a merit list of the Junior Environmental Engineer for which interviews had been held pursuant to the advertisement issued on 06.05.2011 and such merit list was furnished to him which indicated that he was at Sl. No.1 in the merit list.

He also contended that since he was at Sl. No.1 in the merit list, he should have been shown as senior to the appellant in W.A. No.122 of 2024 and respondent No.6 in the said Writ Appeal.

17) The Board filed a counter affidavit in the Writ Petition taking a stand similar to what it has taken in WP(C) No.654 of 2023 and admitting that in the merit list, respondent No.5 was at Sl. No.1 in the merit list of Junior Environmental Engineer, appellant was at Sl. No.2 and respondent No.6 was placed at Sl. No.1 in the Scheduled Caste category (with which we are not concerned).

The dates of confirmation of service of the respective parties as stated by the respondent No.5 in the Writ Appeal/Writ Petitioner, were admitted.

Reliance is again made on proviso to Rule 4 framed by the Government of Tripura, General Administration (P&T) Department on 18.05.2006 referred to supra. The Board justified the action taken by it on the basis of the said Rule.

The appellants supported the stand of the Board before the learned Single Judge.

The common judgment of the Single Judge in WP(C) No.654 of 2023 and WP(C) No.655 of 2023

18) A common judgment was pronounced in the WP(C) No.654 of 2023 and WP(C) No.655 of 2023 by the learned Single Judge, who allowed both the Writ Petitions.

He held firstly that the date of joining duty cannot be the basis for determining of seniority; and that when a person selected has been given time to join, and within that period if he joins, regardless of the fact that the person who

is inferior in the merit list joins earlier, the former selected person will be entitled to regain his seniority as in the original merit list.

He held that all the parties joined before the cut-off date and since the consideration is expected to be made based on merit list, which is supposed to be the scorecard and which is not disputed by the Board, respondent Nos.5 in both the Writ Appeals (who are petitioners in WP(C) No.654 of 2023 and WP(C) No.655 of 2023) having obtained better marks than the appellants, should be seniors and the Final Seniority List drafted by the Board is incorrect.

He also held that the Rules cited by the Board for determination of seniority are those applied by the Government of Tripura for its employees and they have not been adopted by the Board and, therefore, they are not applicable.

He held that the appellants cannot take advantage of the fact that they reported prior to the reporting date of the respective respondent Nos.5/ Writ Petitioners, and that if more candidates than one are selected, seniority has to be as per the rank of the direct recruits subject to adjustment of the candidates selected applying the Rule of reservation and the roster. According to him, mere fortuitous chance of reporting to duty earlier would not alter the ranking given by the Selection Committee.

The Writ Appeals

- 19) Challenging the same, these Writ Appeals are filed.
- 20) Counsel for the appellants contended that the learned Single Judge erred in granting relief to the respective private respondents ignoring the proviso to Rule 4 of the memorandum dt.18.05.2006 issued by the Commissioner & Secretary to the Government of Tripura, General Administration (P&T) Department.

21) The said proviso, no doubt, states that “*where persons are recruited initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order of merit*”.

22) However, neither the counsel for the appellants nor the counsel for the Board has shown us any proceeding issued by the Board adopting the said Rules of the State of Tripura for determination of seniority of employees in the Board.

23) Admittedly, the Board was set up by the Government of Tripura in 1988 under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. It is a statutory body set up to enforce the said statutes. The fact that it is a statutory body is admitted in the counter affidavit filed by the said Board.

24) The Board is an independent legal entity and is not part of the State Government. Merely because it runs under the Department of Science, Technology and Environment of the Government of Tripura, it cannot be treated as part of the State Government.

25) In ***Rajesh Pravinchandra Rajyaguru v. Gujarat Water Supply and Sewerage Board & others***¹, the Supreme Court held that employees of the Gujarat Water Supply and Sewerage Board are not entitled to any benefit flowing from any State Government Resolutions unless and until the said Board has specifically adopted the said Government Resolutions. It held that the State Government and the autonomous Board/bodies cannot be put on a par. It relied

¹ (2021) 19 SCC 128

on its judgment in ***Punjab State Cooperative Milk Producers Federation Limited and another v. Balbir Kumar Walia and others***² wherein it had held that Board and Corporation employees stand on a different footing from Central/State Government employees, that the Board is an independent entity and its employees cannot claim parity with employees of the State Government.

26) The general principle of law of seniority as laid down in ***Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra and others***³ at paragraph-47(A) is that “once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation”. Counsel for the appellants or the Board have not cited any precedent/judgment to the contrary.

27) Therefore, merely because the appellants were confirmed a couple of days before the respective private respondents No.5, they cannot claim seniority basing on their dates of confirmation.

28) Though counsel for the appellants vehemently contended that there is no merit list at all and that what was furnished to the Writ Petitioners/ private respondents No.5 in the Writ Appeals by the Board was a mere ‘score card’ and cannot be termed as a merit list, we do not accept the said contention.

29) The Board has categorically stated that what was furnished to the respective respondents No.5 by it, are merit lists of the selection held pursuant to the advertisement issued on 06.05.2011 for the post of Junior Scientist and Junior Environmental Engineer respectively.

30) It is not the case of the appellants that they had got better marks than the Writ Petitioners/respondents no.5 in the interview. There is no such

² (2021) 8 SCC 784

³ (1990) 2 SCC 715

plea at all. If the appellants dispute the merit lists furnished by the Board, then there is no other document produced by them to show that they were selected in the interviews held for the respective posts. Then their own appointments will be in jeopardy.

31) Undoubtedly, the private respondent Nos.5 in both the Writ Appeals were shown as senior to the appellants in both the Writ Appeals in the said merit lists.

32) Therefore, the respective respondents No.5 in both the Writ Appeals have to be treated as senior to the appellants in the Writ Appeals.

33) The plea based on the dates of joining in the post of Junior Scientist and Junior Environmental Engineer in the year 2012 raised by the appellants and claiming seniority on the basis of their date of joining, was rightly rejected by the learned Single Judge quoting the judgments of the Supreme Court in ***Suresh Chandra Jha v. State of Bihar and others***⁴ and in ***Chairman, Puri Gramya Bank and another v. Ananda Chandra Das and others***⁵.

34) We, therefore, do not find any merit in the Writ Appeals. They are accordingly dismissed. No costs.

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

(S. DATTA PURKAYASTHA, J) (M.S. RAMACHANDRA RAO, CJ)

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⁴ (2007) 1 SCC 405

⁵ (1994) 6 SCC 301