

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.54 of 2023

1. Sri Laxman Prasad, son of Mohan Prasad, resident of Village-Baihari, P.O.- Oriya, P.S.- Muffacil, Sub-division: Sadar, District-Hazaribagh, Jharkhand, Aged- 44 years

2. Sri Bipul Deb, son of late Paresh Chandra Deb, resident of Village-Gandhigram, P.O.-Gandhigram, P.S.-Airport, Sub-division: Sadar, District-West Tripura, Aged-47 years

.....Petitioner(s);

Versus

1. The State of Tripura represented by the Commissioner and Secretary, Home Department, Government of Tripura, having his office at Secretariat Building, P.O. Kunjaban, P.S. New Capital Complex, District- West Tripura, PIN-799006

2. The Commissioner and Secretary, Home Department, Government of Tripura, having his office at Secretariat Building, P.O. Kunjaban, P.S. New Capital Complex, District- West Tripura, PIN-799006

3. The Director General of Police, having his office at the Police Head Quarters. Akhaura Road, P.O. Agartala, P.S. West Agartala, District- West Tripura, PIN-799001

4. The Inspector General of Police (TSR & OPS), having his office at the Police Head Quarters, Akhaura Road, P.O. Agartala, P.S. West Agartala, District- West Tripura, PIN-799001

5. The Deputy Inspector General of Police AP (ADM & TRG), having his office at the Police Head Quarters, Akhaura Road, P.O. Agartala, P.S. West Agartala, District- West Tripura, PIN-799001

6. Hav (GD) Ranjit Paul, sepoy no-20020009, son of not known, presently posted at 5th battalion, Tripura State Rifle

7. Hav (GD) Satyendra Kumar, sepoy no-20004604, son of not known, presently posted at 6th battalion, Tripura State Rifle

8. Hav (GD) Subrata Biswas, sepoy no-98010547, son of not known, presently posted at 6th battalion, Tripura State Rifle

9. Hav (GD) Sunil Kumar Barma, sepoy no- 97031099, son of not known, presently posted at 12th battalion, Tripura State Rifle

10. Hav (GD) Uttam Paul, sepoy no- 96030580, son of not known, presently posted at 9th battalion, Tripura State Rifle

11. Hav (GD) Bir Bahadur Singh, sepoy no-97031237, son of not known, presently posted at 1st battalion, Tripura State Rifle

12. Hav (GD) Sukanta Das, sepoy no-00060015, son of not known, presently posted at 9th battalion, Tripura State Rifle
13. Hav (GD) Ajit Biswas, sepoy no-20031356, son of not known, presently posted at 10th battalion, Tripura State Rifle
14. Hav (GD) Mitul Paul, sepoy no-00010505, son of not known, presently posted at 3rd battalion, Tripura State Rifle
15. Hav (GD) Satadal Kr. Bhowmik, sepoy no- 20005051, son of not known, presently posted at 6th battalion, Tripura State Rifle
16. Hav (GD) Rajesh Baladi, sepoy no-98060324, son of not known, presently posted at 3rd battalion, Tripura State Rifle
17. Hav (GD) Sarasi Sovan Kanjilal, sepoy no- 98060541, son of not known, presently posted at 13th battalion, Tripura State Rifle
18. Hav (GD) Anukul Roy, sepoy no-00060147, son of not known, presently posted at 12th battalion, Tripura State Rifle
19. Hav (GD) Md. Hanif, sepoy no-20005055, son of not known, presently posted at 12th battalion, Tripura State Rifle
20. Hav (GD) Amaresh Debnath, sepoy no-20004502, son of not known presently posted at 2nd battalion, Tripura State Rifle
21. Hav (GD) Ranjit Debnath, sepoy no-00010506, son of not known presently posted at 10th battalion, Tripura State Rifle
22. Hav (GD) Uttam Kr. Datta, sepoy no-00010502, son of not known presently posted at 2nd battalion, Tripura State Rifle
23. Hav (GD) Chandan Das, sepoy no-97050084, son of not known presently posted at 2nd battalion, Tripura State Rifle
24. Hav (GD) Subash Nath, sepoy no- 96030607, son of not known presently posted at 1st battalion, Tripura State Rifle
25. Hav (GD) Md. Ahid Miah, sepoy no-96030882, son of not known presently posted at 7th battalion, Tripura State Rifle
26. Hav (GD) Sagar Kanti Das, sepoy no-98060332, son of not known presently posted at 10th battalion, Tripura State Rifle
27. Hav (GD) Prem Sankar, sepoy no-20004602, son of not known, presently posted at 2nd battalion, Tripura State Rifle
28. Hav (GD) Dulal Datta, sepoy no-96030566, son of not known, presently posted at 10th battalion, Tripura State Rifle
29. Hav (GD) Dilip Chandra Debnath, sepoy no- 20031352, son of not known, presently posted at 3rd battalion, Tripura State Rifle
30. Hav (GD) Jiban Miah Poddar, sepoy no-00010509, son of not known presently posted at 12th battalion, Tripura State Rifle
31. Hav (GD) Nemai Singh, sepoy no-97040955, son of not known presently posted at 2nd battalion, Tripura State Rifle

32. Hav (GD) Goutam Biswas, sepoy no- 98050600, son of not known presently posted at 2nd battalion, Tripura State Rifle
33. Hav (GD) Utpal Dhara, sepoy no- 00060148, son of not known presently posted at 8th battalion, Tripura State Rifle
34. Hav (GD) Manoj Tirkey, sepoy no- 20020047, son of not known presently posted at 12th battalion, Tripura State Rifle
35. Hav (GD) Samiran Dey, sepoy no-00060013, son of not known presently posted at 6th battalion, Tripura State Rifle
36. Hav (GD) Biswajit Bhowmik, sepoy no- 20004503, son of not known presently posted at 11th battalion, Tripura State Rifle
37. Hav (GD) Chuthan Shil, sepoy no-00010508, son of not known presently posted at 3rd battalion, Tripura State Rifle
38. Hav (GD) Sanjit Suren, sepoy no-98060552, son of not known presently posted at 13th battalion, Tripura State Rifle
39. Hav (GD) Abhaijeet Singh, sepoy no-02070328, son of not known presently posted at 9th battalion, Tripura State Rifle
40. Hav (GD) Harish Thapa, sepoy no-20025392, son of not known presently posted at 9th battalion, Tripura State Rifle
41. Hav (GD) Devendra Singh, sepoy no-02070332, son of not known presently posted at 3rd attalion, Tripura State Rifle
42. Hav (GD) Utpal Paul, sepoy no-02070334, son of not known presently posted at 12th battalion, Tripura State Rifle
43. Hav (GD) Navneet Kr. Sharma, sepoy no- 02060014, son of not known presently posted at 3rd battalion, Tripura State Rifle
44. Hav (GD) Mahinder Kumar, sepoy no-02020512, son of not known presently posted at 12th battalion, Tripura State Rifle
45. Hav (GD) Debu Dey, sepoy no-0060038, son of not known presently posted at 11th battalion, Tripura State Rifle
46. Hav (GD) Krishan Kant Sharma, sepoy no- 02070329, son of not known presently posted at 12th battalion, Tripura State Rifle
47. Hav (GD) Subrata Kar, sepoy no-02070314, son of not known presently posted at 3rd battalion, Tripura State Rifle
48. Hav (GD) Jagannath Paul, sepoy no-00060043, son of not known presently posted at 3rd battalion, Tripura State Rifle
49. Hav (GD) Anwar Hossen Bhuiya, sepoy no- 02070333, son of not known presently posted at 5th battalion, Tripura State Rifle

Notices upon the private respondents may be served through the Director General of Police, having his office at the Police Head Quarters, Akhaura

Road, P.O- Agartala, P.S- West Agartala, District- West Tripura, PIN-799001, the official respondent No.3 herein

.....Respondent(s)

For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,
Mr. Jishan Samed, Advocate.

For Respondent(s) : Mr. Kohinoor Narayan Bhattacharyya, G.A.,
Mrs. Pinki Chakraborty, Advocate.

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

Date of hearing and judgment: **18th April, 2026**

Whether Fit for Reporting: **YES**

JUDGMENT & ORDER (ORAL)

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. Jishan Samed, learned counsel for the petitioners and Mr. Kohinoor Narayan Bhattacharyya, learned Government Advocate for respondents No.1 to 5.

2. Learned counsel Mr. Pradyumna Gautam, who had taken notice on behalf of the private respondents, is absent.

3. Since the listing of this case was notified a week back, and since this hearing is being held pursuant to direction of the Hon'ble Supreme Court to decide old cases on Saturdays, the matter was proceeded with and arguments were heard of the counsel for respondents No.1 to 5 and judgment was received.

Brief facts of the case:

4. The two petitioners had participated in a selection process pursuant to an advertisement issued by Commandant, 3rd and 5th battalion of the Tripura State Rifles (for short 'TSR') in the year 1999 for the post of Havildar (GD) in 5th Battalion TSR (IR-I), and got selected.

5. They were given Offers of Appointment on 04.01.2000 and 24.05.2000.
6. In the Draft Combined Seniority List of Havildar (GD) of TSR Battalions [Annexure-2] notified on 31.08.2012, the petitioners stood at serial Nos.57 and 77 respectively.
7. In the Final Combined Seniority List dt.12.09.2014 of Havildar (GD), they were shown at serial Nos.56 and 75 respectively.
8. Thereafter another Draft Combined Seniority List of Havildar (GD) of TSR Battalions dt.17.01.2019 was also notified in which the petitioners were figured at serial Nos.57 and 76 respectively.
9. While no information is placed with regard to the Final Combined Seniority List prepared on the basis of the Draft Combined Seniority List dt.17.01.2019, petitioners have placed before this Court a Final Seniority List of Havildar (GD) bearing the date 09.11.2021 [Annexure-5] showing the petitioners at serial Nos.45 and 63 respectively.
10. None of these documents are disputed by the respondents.
11. However it appears that when promotions were affected to the next post of Naib-Subedar (GD) on a temporary basis vide order dt.29.12.2022, persons who were junior to petitioner No.1 [from serial No.33 of the said list] and persons who were junior to petitioner No.2 [from serial No.50 onwards], were given such promotion and the petitioners were denied the same.
12. Anticipating that they may not be considered for promotion, the petitioners had given representation on 26.12.2022 to the Chairman of the Departmental Promotion Committee, but no communication was addressed to

the petitioners by the respondents in regard to their grievance at that point of time.

13. Petitioners have therefore approached this Court by filing this Writ Petition challenging the Final Seniority List dt.09.11.2021, as also the promotion order dt.29.12.2022.

14. The contention of the petitioners that for promotion to the post of Naib-Subedar (GD), the petitioners had participated in the Cadre Course in the year 2010, but they both failed in a singular event namely 'FPET', and so they were declared as having failed in the Cadre Course. But subsequently, the petitioners had participated in the Cadre Course in the year 2011, and both the petitioners had passed. Copy of the final result of the 2011 Cadre Course Test was filed as Annexure-9.

15. Petitioners therefore contend that denial of promotion to them in the order dt.29.12.2022 to the post of Naib-Subedar (GD) ignoring their claims and promoting their juniors, is arbitrary, illegal and violative of Art.14 of the Constitution of India.

16. They contend that once they passed the Cadre Course in 2011, they became equally eligible to be promoted to the post of Naib-Subedar (GD) like persons holding the post of Havildar (GD), who had cleared the earlier Cadre Course in 2010.

17. They contend that the Cadre Course, offered to the candidates for promotion to the subsequent higher post, is only an eligibility test and in no way alters the seniority of the candidates.

18. They contend that once they cleared the Cadre Course in 2011, they automatically got eligible for promotion to the higher post of Naib-Subedar (GD) for the aforesaid reason.

19. Petitioners refer to Rule 5 of the Tripura State Rifles (Discipline, Control, Service Conditions etc.) Rules, 1986 [*hereinafter referred to as “the Rules of 1986”*] which in fact does not even prescribe the passing of the Cadre Course for consideration for promotion from the post of Havildar (GD) to the post of Naib-Subedar (GD).

20. The above legal position is also not disputed by the respondents.

Counter Affidavit filed by respondents No.1 to 5:

21. In the Counter Affidavit filed by respondents, it is stated at para 6 as under:

“6. That, with respect to paragraphs-2.6, I state that it is not true. As per order No.3505-24/F.27(8)/DAP/TSR/RSV/11 dated 29.12.2022 a total number of 114 (SC-12, ST-26 & UR-76) Havildars (GD) were conferred the rank of Naib-Sub (GD) on a temporary basis according to their eligibility and inter-se-seniority against the available vacancies of 12 TSR Bns at that time. Out of 114 Hav (GD), the cases of 76 ‘UR’ category Hav (GD) were considered for conferring the rank of Nb/Sub (GD) on temporary basis whose name had already been included in the Approved List-‘D’ now list-‘C’ which was prepared by the DPC in the year 2010.

*Copy of order No.3505-24/F.27(8)/DAP/TSR/RSV/11 dated 29.12.2022 is annexed hereto and marked as **Annexure-R/1.***

Since, both the petitioners belong to ‘UR’ category and their names were not included in the Approved List-D in the year 2010 as they did not qualify the pre-promotion cadre list-D along with those 44 Hav (GD) (herein referred as private Respondents) who are found junior to the petitioners as per final seniority list of Havildars (GD) circulated dated 09/11/2021.

*Copy of letter dated 09/11/2021 alongwith final seniority list of Hav (GD) is annexed hereto and marked as **Annexure-R/2.***

Moreover, both the petitioners had qualified Pre-promotion cadre List-D cadre course held in the year 2011 as a failed candidate of PPC-2010, and, therefore, names of both the petitioners have not come under the zone of consideration for the rank of In-Charge Nb/Sub (GD) from Hav (GD) on temporary basis as per their eligibility as well as taking into consideration of UR vacant posts.

*Copies of DPC proceedings held in the year 2010 and 2011 for promotion of Havildars (GD) to the rank of Nb/Sub (GD) are enclosed herewith and marked as **Annexure-R/3 and Annexure-R/4 respectively.***

22. Thus the stand of the respondents is that because the petitioners were not included in the approved List-D of the year 2010, they did not qualify in the pre-promotion cadre List-D along with the other people who had been promoted in spite of being shown as seniors to them in the Final Seniority List dt.09.11.2021, and they were not given the said promotion as Naib-Subedar (GD).

23. They also state that petitioners had qualified the pre-promotion cadre List-D Cadre Course held in 2011 as a failed candidate of PPC-2010, and therefore names of both the petitioners have not come under the zone of consideration for the rank of In-Charge Naib-Subedar (GD) from Havildar (GD) on temporary basis as per their eligibility as well as taking into consideration of UR vacant posts.

Consideration by the Court:

24. The stand of the respondents No.1 to 5 runs contrary to Rule 5 of the Rules of 1986 quoted above, which does not prescribe passing of a Cadre Course for promotion from the post of Havildar (GD) to the post of Naib-Subedar (GD) at all.

25. It is inexplicable why the respondents ignored Rule 5 of the above rules which they have framed, and which governs the conditions for

eligibility for approved lists, and this indicates the arbitrariness in their decision not to promote the petitioners on the said ground.

26. Even otherwise, the impugned promotions were being conducted in 2022, and though the petitioners had failed the pre-promotion cadre List-D Cadre Course in 2010, admittedly they passed the same in the subsequent year of 2011. Annexure-9 filed along with the Writ Petition indicates that they passed the same on 21.01.2011.

27. The respondents could not have ignored the passing by the petitioners of the pre-promotion cadre List-D Cadre Course in 2011 as proved by Annexure-9 dt.21.01.2011, when they were doing the actual promotion exercise eleven years later in 2022.

28. There is no valid reason offered why the respondents should rely on the pre-promotion cadre List-D Cadre Course results held in 2010 to deny the petitioners the promotion to the post of Naib-Subedar (GD) being done in 2022 ignoring their passing in the said test in 2011 assuming for the sake of argument that the applicable Service Rules mandate the passing of such Cadre Course examination (which they do not actually require as per Rule 5).

29. It is also distressing to note that though the statement is made in para 10 that after the ceasing of the Model Code of Conduct in the Assembly Election, 2023 in the State of Tripura, the DPC would assess the suitability of Havildar (GD) for consideration of promotion to the post of Naib-Subedar (GD), and the case of the petitioners also would be considered then, nothing has been done in the last three years in that regard.

30. I agree with the contentions of the petitioners that firstly passing in the Cadre Course is not required at all as per Rule 5 of the Rules of 1986 for

promotion of Havildar (GD) as Naib-Subedar (GD), and even if it is necessary, it is only an eligibility test and will not alter the seniority of the candidate.

31. Consequently the petitioners having cleared the said Cadre Course in the year 2011, were entitled to be considered for promotion to the post of Naib-Subedar (GD), and the denial of promotion to them in the proceedings dt.29.12.2022 of the third respondent, is illegal, arbitrary and violative of Art.14 of the Constitution of India.

32. Therefore, the Writ Petition is allowed, and the promotion order dt.29.12.2022 issued by the respondents in so far as it promotes the private respondents junior to both petitioners is set aside; and it is held that non-consideration of petitioners for promotion to the post of Naib-Subedar (GD) is arbitrary, illegal and violative of Art.14 of the Constitution of India.

33. The petitioners' cases shall be reconsidered by the DPC keeping in mind the principle laid down in this judgment, and promotions to the post of Naib-Subedar (GD) shall be made strictly in accordance with the applicable Rules within 3(three) months from the date of receipt of copy of this Order.

34. It is needless to state that if the DPC finds the petitioners eligible for such promotion, such promotion shall be given to them from 09.12.2022 with all consequential benefits to the petitioners.

35. It is also needless to state that the seniority of the petitioners vis-à-vis their juniors, shall be maintained in the next post of Naib-Subedar (GD) as well, if they are promoted to the said post by the DPC.

36. No costs.

(M.S. RAMACHANDRA RAO, CJ)

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