

**THE HIGH COURT OF TRIPURA
AGARTALA**

WA NO.53 OF 2014

1. Sri Tapan Chandra Lodh,

C/O Sunil Chandra Lodh,
PO: RK Pur,
Jail Road, Udaipur,
Pin: 799120,
District-Gomati.

2. Sri Sajal Chandra Das,

S/O Lt. Dhirendra Chandra Das,
Joynagar, Dashami Ghat,
PO: Agartala, Pin: 799001,
District-West Tripura.

3. Sri Uttam Kumar Dey,

S/O Naresh Chandra Dey,
Vill: Indranagar,
PO: Kunjaban, Pin: 799006,
District: West Tripura.

4. Sri Pradip Deb,

S/O Lt. Sachindra Deb,
79, Tilla, Ramkrishnanagar,
PO: Kunjaban, PIN: 799006,
District: West Tripura.

5. Sri Goutam Chandra Dey,

S/O Lt Gopal Chandra Dey,
resident of Shiv bari,
PO: Dharmanagar, PIN:799250,
District: North Tripura.

..... Appellants

- Vs -

1. The State of Tripura,

Represented by the Secretary,
Public Works Department,
Government of Tripura,
New Secretariat,
Agartala,
PO: Secretariat, Pin: 799010,
West Tripura.

2.The Engineering-in-Chief(R&B),

Public Works Department,
Government of Tripura,
PO: Agartala, PIN:799001, West Tripura,

3. The Additional Secretary,

Transport Department,
Government of Tripura,
New Secretariat , Agartala,
PO: Secretariat, PIN: 799010,
West Tripura.

4. The Under Secretary,

Transport Department,
Government of Tripura,
New Secretariat, Agartala,
Agartala, PIN:799010,
West Tripura.

5. Sri Haripada Das, Driver.

6. Sri Ratan Chandra Dey, Driver.

7. Sri Sudhanshu Chandra Pal, Driver.

8. Sri Rashendra Lal Das, Driver.

9. Sri Meghnadh Debbarma, Driver.

10. Sri Tapash Chandra Sukla Das, Driver.

11. Sri Budhi Debbarma, Driver.

12. Sri Uttam Debbarma, Driver.

13. Sri Salafu Mag, Driver.

14. Sri Budhi Debbarma, Driver.

15. Sri Chandan Malakar, Driver.

16. Sri Ananda Baul, Driver.

17. Sri Gautam Chakraborti , Driver,

18. Sri Jatan Debnath, Driver.

19. Sri Sudhir Ranjan Nama, Driver.

20. Sri Rabi Debbarma, Driver.

21. Sri Chaymay Thoung Kuki , Driver.

22. Sri Sushil Bikash Chakma, Driver.

23. Sri Dilip Kumar Debbarma, Driver.

24. Sri Bidhya Mohan Chakma, Driver.

25. Sri Aman Tripura, Driver.

26. Sri Achai Mog, Driver.

27. Sri Sampadhan Tripura, Driver.

28. Sri Subrata Das, Driver

.....*Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the appellants : Mr. C.S. Sinha, Advocate

For the respondents : Mr. T.D. Majumder, G.A.

Date of hearing and
delivery of Judgment
& order : **24.06.2015.**

Whether Fit for Reporting :

Yes	No
✓	

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

This appeal by the appellants is directed against the judgment dated 07.03.2014 delivered by a learned Single Judge of this Court whereby the writ petition was rejected with the clarification that the select list shall remain valid and no other person shall be appointed till the select list is exhausted.

2. The appellants and the private respondents were all Group-D employees working in the Public Works Department of the

Government of Tripura. The State of Tripura has framed the Tripura Government Vehicles Drivers Services Rules. Rule 10(b) and 10(c) of the Rules with which we are concerned read as follows:

"10(b) Seventy per cent of the total vacancies arising in a year shall be filled up by direct recruitment while the rest thirty per cent shall be filled up by promotion from the regular Group-D employees having valid licence for driving vehicles. In case of the direct recruits, Transport Department shall conduct interview and suitability test as may be prescribed and select a panel of eligible candidates for forwarding the same to the respective Departments. The list to be prepared shall contain selected candidates double the number of vacancies that may be filled up. The list shall remain valid for a period of one year.

10(c) In case of promotion of Group-D employees as Drivers the Transport Department shall take practical test and interview to assess the suitability of the employee concerned to drive a Government vehicle and recommend names to the Departments for filling up the promotional posts of Drivers. All Departments mentioned in the Schedule shall maintain a roster to indicate the number of vacancies meant for direct recruit and promotes. In case no qualified Group-D employee is found for promotion as Driver the post may be filled up by direct recruits."

3. As per these Rules, seventy percent of the total vacancies are to be filled in by direct recruitment and thirty percent

by promotion from amongst those Group-D employees who hold a valid licence for driving the vehicles.

Sub-rule(b) of Rule 10 deals with the direct recruitment and provides that the Transport Department shall conduct interview and suitability test and select a panel of eligible candidates for forwarding the same to the respective Departments. The list to be prepared is to contain twice the number of candidates as against the number of posts available. This select panel is only to remain valid for one year.

In sub-rule(c) which deals with promotion of Group-D employees, the words used are that the Transport Department shall conduct practical test and interview to assess the suitability of the employee concerned to drive a Government vehicle and thereafter recommend the names to the Departments for filling up the promotional posts of drivers. The language used in sub-rule(c) is different to the language used in sub-rule(b). Furthermore, this rule does not contain any provision that the select list shall remain valid only for a particular period.

4. The intention behind sub-rule(c) appears to be to give an opportunity to those Group-D employees who hold valid driving licences to be promoted as drivers. The test which is prescribed is a suitability test.

5. When the Memo. was issued on 20.06.2013 to fill up these posts it contained the following paragraph:-

"4. The Committee, so constituted by the Department, submitted its recommendation Department wise. A copy of list of recommended Group-D employees is enclosed for necessary action by the concerned Department for giving promotion subject to order of merit, verification of academic record, age proof etc. as mentioned in Tripura Government Vehicles Drivers' Service Rules, 2011(Seventh amendment)."

6. Mr. Sinha is right when he submits that this Memorandum contained a clause that the list to be prepared should be in the order of merit. In fact, thereafter, a merit list of the drivers was prepared in which the petitioners were admittedly higher in merit than the private respondents. Thereafter, the State issued another Memo. on 21.08.2013, relevant portion of which reads as follows:

"I am directed to refer to your letter No.F.2-38/ESTT/TRP&PGT/86/1542 dated 05th July, 2013 and to inform you that as per Rule 10(b)(c) of the Tripura Government Vehicle Drivers Services Rules 1979, 30% of total posts of Drivers are to be filled up by promotion. So, promotion is to be given on the basis of seniority combined with merit."

7. After the second communication dated 21.08.2013 was issued the promotions have been made on the basis of the seniority

held in Group-D employees and not on the basis of the merit attained in the test conducted by the Transport Department.

8. According to Mr. Sinha, once the Department had taken a decision to get a merit list prepared it could not change the rules of the game after the merit list had been prepared and direct that the promotion shall be made on the basis of seniority-cum-merit. The learned Single Judge did not find force in the contention of Mr. Sinha but had not given any detailed reasons for not agreeing with his contention.

9. We have referred to the Rules hereinabove and according to us, sub-rule(c) which we have quoted hereinbefore does not contemplate the preparation of a merit list. The test to be conducted by the Transport Department is in the nature of a screening or suitability test only to assess whether the Group-D employee concerned can drive a Government Vehicle. If he is found suitable to drive a Govt. vehicle then he is to be promoted. We must also take into consideration of the fact that we are dealing with people who are at the lowermost rung of the ladder. The minimum educational qualifications are only Class-VIII pass. These employees have virtually no avenues of promotion and one of the few avenues of promotion is to be appointed as drivers. As indicated by us above, sub-rule(c) does not in any manner lay down that the appointments have to be made on the basis of merit. No doubt, as urged by Mr. Sinha, the rule is not absolutely clear but we

are of the view that if we read sub-rule(c) in contradiction to sub-rule(b) it is more than amply obvious that the intention of the State was that the test to be held in regard to sub-rule(c) was only a test to assess the suitability of the candidate and once a candidate is found suitable then there is no question of a merit list being prepared because they are due to be promoted in the order of the seniority enjoyed in the lower grade. Therefore, we find no merit in this appeal which is accordingly rejected. We also uphold the direction of the learned Single Judge that the select list of Group-D employees found suitable shall remain valid till it is totally exhausted. Only thereafter fresh recruitment of driver by promotion from Group-D employees shall be started. It is, however, made clear that since we have given this interpretation to the Rules, the State shall follow this interpretation in all the departments and will not follow any other system in any other case.

JUDGE

CHIEF JUSTICE