

**THE HIGH COURT OF TRIPURA
AGARTALA**

W.P.(C) No. 561 of 2010

PETITIONERS :

1. Shri Rajib Nag,

S/O.Sri Bhabasankar Nag,
Matri Bandana,
Shyamali Bazar,
P.O. Kunjaban,
Agartala, West Tripura,
Pin-799006.

2. Shri Tapas Deb,

S/O. Sri Siba Prasad Deb,
Village-Damdama, P.O. Sabroom,
District-South Tripura,

3. Shri Surajit Dhar,

S/O. Late Kshitindra Kr. Dhar,
C/O. Shri Mohit Rn. Dhar,
Village-Santi Palli,
P.O. R.K.Pur, Udaipur,
District-South Tripura,

4. Shri Anirban Dhar Choudhury,

S/O. Sri Sukomal Dhar Choudhury,
Hrishi Aurobindo Lane,
Near Bordowali BOC,
P.O. Agartala, 799003,
District-West Tripura,

5. Shri Narayan Roy Choudhury,

S/O. Sri Rathindra Krishna Roy Choudhury,
C/O. Nakul Dutta, Roy Kutir,
Durga Chowmuhani, P.O. Agartala,
District-West Tripura,

6. Sri Ranaditya Das,

S/O. Sri Mrityunjoy Das,
Milan Chakra, Stadium Link Road,
P.O. A.D. Nagar, Agartala, 799003,
District-West Tripura,

7. Sri Ashis Debnath,

S/O. Late Dinesh Ch. Debnath,
C/O. Amrita Lal Debnath,
East Shibnagar, Kalitala,
P.O. Agartala College,
District-West Tripura,

- 8. Sri Prasenjit Ghosh,**
S/O. Late Pradip Kr. Ghosh,
Opposite to Shiksha Niketan School,
P.O. Indranagar, Agartala,
District-West Tripura,
- 9. Sri Rajib Sen Gupta,**
S/O. Late Janardhan Sen Gupta,
C/O. Late Nepal Chakraborty,
Paradise Chowmuhani,
Hospital Road, P.O. Agartala,
District-West Tripura,
- 10. Sri Kallol Roy,**
S/O. Sri Mihir Rn. Roy,
Milan Sangha, P.O. A.D.Nagar,
PIN-799003, Agartala,
District-West Tripura,
- 11. Sri Amitabha Pal,**
S/O. Sri Manindra Kishore Paul,
Salema, P.O. Salema, Kamalpur,
District-Dhalai Tripura,
- 12. Sri Alok Bhattacharjee,**
S/O. Sri Ashutosh Bhattacharjee,
C/O. Sri Gopal Ch. Das,
North Joynagar(Opposite Fruit
Preservation Centre), Agartala,
P.O. Agartala, West Tripura,
- 13. Sri Ashok Kumar Sinha,**
S/O. Late Phalguni Sinha,
Village & P.O. Goldharpur,
Kailashahar, North Tripura,
- 14. Sri Sudip Kumar Pal,**
S/O. Sri Mantu Kumar Pal,
Village & P.O. Nadiya,
P.S. Jatrapur, Sonamura,
District-West Tripura,
- 15. Sri Kishan Kumar,**
S/O. Late Munsur Ali,
of South Ramnagar,
P.S. West Agartala,
District-West Tripura,
- 16. Sri Shishir Kr. Das,**
S/O. Late Sachindra Kr. Das,
Village East Dukli,
(Near Housing Complex),
P.O. East Pratapgarh, via Agartala College,
PIN-799004, District-West Tripura,

17. Sri Jyotisman Das Choudhuri,
S/O. Sri Dilip Kr. Das Choudhuri,
"Dinesh Smrity", Krishnagar,
Nutan Palli, P.O. Agartala-799001,
District-West Tripura,

18. Sri Mihir Lal Das,
S/O. Sri Makhan Lal Das,
Village-Dugangi,
P.O. Gandhigram,
PIN-799012, P.S. Airport,
District-West Tripura,

19. Sri Ranadhir Debbarma,
S/O. Late Biswa Ranjan Debbarma,
14, Radhamohan Sharani(J.B.Road),
P.O. Agartala, 799001,
District-West Tripura,

20. Sri Badal Debbarma,
S/O. Sri Maniram Debbarma,
Village-Hezamara,
P.O. Baikuntha Pur,
P.S. Sidhai, West Tripura,

21. H. Francis Darlong,
S/O. Late lala Darlong,
Village-Kathal Cherra,
P.O. & P.S. Nepaltilla Old,
Dhalai Tripura,

22. Sri Amitabha Dewan,
S/O. Sri Mohit Lal Dewan,
Village-Madhab Maste Para,
P.O. Mainama, P.S. Manughat,
Dhalai Tripura,

23. Sri Binoy Kishore Debbarma,
S/O. Sri Kartik Chandra Debbarma,
Village Narayanbari, P.S. Jirania,
PIN-799045, Agartala,
District-West Tripura,

BY ADVOCATES :

Mr. D. K. Das Choudhury,
Mr. P. Roy Barman,

- *VS* -

RESPONDENTS :

1. The State of Tripura

To be represented by the Principal
Secretary, Department of Home,
Government of Tripura,
New Secretariat Complex,
Agartala, P.O. Lichubagan,
P.S. East Agartala,
District-West Tripura,

2. The Secretary,

Department of Finance,
Government of Tripura,
New Secretariat Complex,
Agartala, P.O. Lichubagan,
P.S. East Agartala,
District-West Tripura,

3. The Under Secretary,

Department of Finance, GA(P&T),
Government of Tripura,
New Secretariat Complex,
Agartala, P.O. Lichubagan,
P.S. East Agartala,
District-West Tripura,

4. The Director General of Police,

Government of Tripura,
Fire Service Choumuhani,
P.O. Agartala, P.S. West Agartala,
District- West Tripura.

5. Tripura Public Service Commission,

Represented by its Secretary,
Akhaura Road, P.O. Agartala,
P.S. West Agartala,
District- West Tripura.

BY ADVOCATES :

Mr. S. Deb,
Mr. D. C. Nath,

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

Date of hearing : **03.07.2015.**

Date of delivery of Judgment
& order : **____.07.2015.**

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER

Heard learned counsel, Mr. D. K. Das Choudhury along with learned counsel, Mr. P. Roy Barman for the petitioners and learned Senior counsel, Mr. S. Deb, assisted by learned counsel, Mr. D. C. Nath for the respondents.

2. Pursuant to an advertisement dated 21.04.2002 for recruitment to the post of Assistant Commandant of Tripura State Rifles(for short 'TSR'), the petitioners were selected by TPSC and consequent to such selection, respondent No.4, the Director General of Police by Office Order issued on 04.11.2004 (Annexure-4 to the writ petition) appointed the petitioners to the posts of Assistant Commandant, TSR Battalion. The appointments were made as per the provisions of the rules, namely, Recruitment Rules for the post of Assistant Commandant Tripura State Rifles, 1998. The Tripura Police Service Rules, 1967 (for short 'TPS Rules, 1967'), after amendment, prescribes provision for absorption of Assistant Commandant of TSR to the post of Tripura Police Service (for short 'TPS') Grade-II.

3. The State-respondent by issuing Memo dated 12.06.2006 (Annexure-6 to the writ petition) invited option from the eligible officers working in ex-cadre posts, including Assistant Commandant of TSR, to absorb in the post of TPS Grade-II and accordingly, all the petitioners exercised their options and having found them eligible, by Notification dated 15.11.2006 (Annexure-

8 to the writ petition), all the petitioners were absorbed in the Cadre of TPS Grade-II.

4. It is the case of the petitioners that the posts of Assistant Commandant of TSR and TPS Grade-II were equivalent post having prescribed same and identical pay scales as per the service rules as well as the ROP Rules, 1999 and since the ROP Rules, 1999 prescribes CAS-I after four years of service, the petitioners claimed CAS-I and submitted their representations for granting them CAS-I taking into account their services as Assistant Commandant in TSR, but the respondents by issuing Memo dated 05.03.2010 (Annexure 13 to the writ petition) turned down the claim of the petitioners contending that the services rendered by the petitioners as Assistant Commandant of TSR were not permissible to be counted as part of TPS Cadre service and hence, they were not provided the benefit of ACP. By filing this writ petition the petitioners challenged that Notification dated 05.03.2010 and prayed for directing the respondents to grant them CAS-I on their completion of four years of service.

5. The respondents contended that the petitioners were appointed as Assistant Commandant of TSR on 04.11.2004. They were absorbed in TPS Grade-II, i.e., the Cadre service on 15.11.2006. They were supposed to complete four years of continuous service in the TPS Cadre for having the benefit of CAS-I. Since they did not complete four years of service in the Cadre of TPS Grade-II, their claim was rejected by issuing Memo

dated 05.03.2010. There was nothing wrong in the action taken by the State-respondents and the writ petition should be dismissed.

6. It is an admitted position that the petitioners were all appointed as Assistant Commandant of TSR as per the Recruitment Rules of 1998. The pay scale prescribed in the Rules for the post of Assistant Commandant was Rs.2100-3000-5000/-. Pre-revised scale of TPS Grade-II was also exactly same as that of the Assistant Commandant of TSR.

7. Annexure-C of ROP Rules 1999 prescribes existing and revised pay scale of various posts, wherein at heading 'D' the pay scale of Tripura State Rifles Battalion has been prescribed. Therein in Item No.3, the pay scale of Assistant Commandant has been prescribed same as for TPS. The scale has not been mentioned, but the word 'TPS' has been mentioned in Column Nos.3 and 4, and thereby it is made clear that the pay scale of TPS Grade-II shall be applicable to the Assistant Commandant of TSR.

8. Annexure-B in Item No.9, the pay scale of Tripura Police Service has been prescribed. For TPS Grade-II, pre-revised pay scale was Rs.2100-3000/- and the revised scale of Rs.7800-15100/- and it is mentioned clearly that the direct recruits will move to CAS-1 after four years of service and after four years of service they will be entitled to the pay scale of Rs.10000-15100/-. It is, therefore, evident that same and

identical pay scales were prescribed for the posts of Assistant Commandant of TSR and TPS Grade-II all along. Rule 10(d) of ROP Rules, 1999 prescribes that the employees of Cadre service will have scale advancement as prescribed in the Annexure-B and that will be effective from 01.01.1999.

9. TPS Rules, 1967 was amended vide 12th Amendment Rule, 2006. By that amendment Sub-Rule (iv) was incorporated, which prescribes thus:-

"The relative seniority of a person who is absorbed in the Tripura Police Service from some other post or service shall be determined in consultation with the Commission and his seniority shall normally be counted from the date of his absorption in the service.

Provided that if the person concerned has already been holding, on the date of absorption, the same or equivalent post/grade on regular basis in his parent organization, such regular service rendered by the person concerned in the post/grade of the parent organization shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from the date from which he has been appointed on regular basis to the same or equivalent post/grade in his parent organization."

10. The petitioners were appointed as Assistant Commandant of TSR in due process of law. The TPS Rule, 1967 prescribes provision for absorption in TPS Grade-II from other ex-cadre posts. As per the provisions prescribed in Rule 28 of TPS Rules, the petitioners' service in the post of Assistant commandant of TSR shall be treated as service in equivalent post/grade in view of same and identical pay scale. So, after their absorption in TPS Grade-II their services in the post of Assistant Commandant of TSR were just merged with the service in the Cadre of TPS Grade II.

11. Therefore, in my considered opinion, the rejection of representations of the petitioners by Memo dated 05.03.2010 on the ground that their services in the post of Assistant Commandant Grade-II cannot be counted for the purpose of ACP is irrational and unjustified and, hence, cannot stand in the eye of law. The past services of the petitioners in the post of Assistant Commandant of TSR shall be counted as continuous services for all purposes and hence, the said past service shall be counted for the purpose of financial benefits as per ROP Rules, 1999.

12. In view of the discussion made above, communication dated 05.03.2010 (Annexure-13 to the writ petition) is illegal and accordingly, it is set aside and quashed. The respondents are directed to grant CAS-I to the petitioners on their completion of four years of service taking into account of their services as Assistant Commandant in TSR and to grant them the pay scale of Rs.10000-15100/- and the benefit should be granted within 90 (ninety) days from today, failing which the arrear amount shall carry interest @ 6% per annum.

13. With the above observations and directions, the writ petition stands disposed of. There shall be no order as to costs.

JUDGE