

**THE HIGH COURT OF TRIPURA
AGARTALA**

W.P.(C) No. 325 of 2010

PETITIONER :

1. Shri Rabindra Chandra Ghosh,

S/O. Late Pratap Chandra Ghosh
of Bishalgarh, P.O.-Bishalgarh,
P.S.- Bishalgarh,
District-West Tripura,

2. Shri Dilip Ghosh,

S/O. Late Nishikanta Ghosh
of Hairmara, P.O.-SD Mission,
P.S.-Amtali, District-West Tripura,

3. Shri Ratan Bhattacharjee,

S/O. Late Dharendra Chandra Bhattacharjee,
of AD Nagar Road No.6,
P.O.- AD Nagar,
P.S. West Agartala,
District-West Tripura.

4. Shri Narendra Debnath,

S/O. Late Sashi Mohan Debnath,
of Sri Palli, P.O.-Badharghat,
P.S. West Agartala,
District-West Tripura.

5. Shri Ashutosh Das,

S/O. Late Chitta Ranjan Das,
of AD Nagar Road No.1,
P.O. AD Nagar,
P.S. West Agartala,
District-West Tripura.

6. Shri Narayan Sen Chowdhury,

S/O. Late Hirendra Sen Chowdhury,
of Dhajanagar, P.O.-Gakulnagar,
P.S. R.K.Pur,
District-South Tripura.

7. Shri Swapan Chakraborty,

S/O. Late Anath Bandhu Chakraborty,
of AD Nagar Road No.1,
P.O. AD Nagar,
P.S. West Agartala,
District-West Tripura.

8. Shri Gobinda Debnath,
S/O. Late Jagabandhu Debnath,
of Nanditilla(Gajaria),
P.O.-SD Mission,
P.S. West Agartala,
District-West Tripura.

9. Shri Shyamal Kanti Dutta,
S/O. Late Nani Gopal Dutta,
of AD Nagar(Surjya Para),
P.O. AD Nagar,
P.S. West Agartala,
District-West Tripura.

10. Shri Golap Babu Singh,
S/O. Late Balananda Singh,
of Gopinagar,
P.O. Kalkalia,
P.S. Bishalgarh,
District-West Tripura.

BY ADVOCATES :

Mr.S.M.Chakraborty,
Mr.S.Bhattacharji,
Mr.P.Chakraborty,
Ms. A. Banik,
Ms.S. Majumder,
Ms.B.R.Das,
Mr.B.S.Bhowmik,
Ms. B. Chakraborty,

- Vs -

RESPONDENTS :

1. The State of Tripura,
Through the Secretary,
Government of Tripura,
Department of Home,
P.O. Kunjaban,
New Capital Complex,
Agartala.

2. The Director General of Police,
Government of Tripura,
P.O. Agartala, District-West Tripura,

3. The Superintendent of Police(West),
Government of Tripura,
P.O. Agartala, District-West Tripura,

4. The Superintendent of Police(Procurement),
Government of Tripura,
P.O. AD Nagar, District-West Tripura,

5. The Superintendent of Police(South),
Government of Tripura,
P.O. Udaipur, District-South Tripura,

6. The Superintendent of Police(Communication),
Government of Tripura,
AD Nagar Police Reserve,
P.O. AD Nagar, Agartala,
District-West Tripura,

BY ADVOCATES :

Mr. A. Pal,

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

Date of hearing & delivery of
Judgment & order : **17.08.2015.**

Whether Fit for Reporting :

Yes	No
	✓

JUDGMENT & ORDER(ORAL)

Heard learned senior counsel, Mr. S. M. Chakraborty,
assisted by learned counsel, Ms. B. Chakraborty for the
petitioners and learned State counsel, Mr. A. Pal for the State-
respondents.

2. By filing this writ petition, the petitioners prayed for
directing the respondents to promote them in Grade-I of the
Tripura Government Vehicle Drivers' Service since they have
completed seven years of service in Grade-II as per the Tripura
Government Vehicles Drivers' Service Rules, 1979. Admittedly,
the petitioners were appointed as drivers in the Police

Department under the respondents and they have been working in Grade-II of the service. The petitioners claimed that on their completion of seven years of service in Grade-II, they were automatically entitled to be appointed in Grade-I of the Service as per the provisions of Tripura Government Vehicles Drivers' Service Rules, 1979.

3. The respondents contended that the petitioners are serving under the Police Department of the Government of Tripura and they are guided by the Tripura Police Drivers (Recruitment and Conditions of Service) Rules, 1979 and there is no provision in the said Rules of automatic promotion on completion of seven years of service, but there is provision of promotion in due process after selection through DPC.

4. In course of hearing, learned senior counsel, Mr. Chakraborty has fairly admitted that since the petitioners are serving as drivers under the Police Department, they shall be guided by the Tripura Police Drivers (Recruitment and Conditions of service) Rules, 1979. It is submitted by Mr. Chakraborty that in response to a Lawyer's notice issued by the petitioners, the respondents by a letter dated 08.03.2010 (Annexure-4 to the writ petition) informed the Advocate of the petitioners that the grievance of the petitioners has been examined and it was found that the petitioners were fit for promotion, but they could not be promoted to Selection Grade Head Constable ('SGHC' for short) Drivers(Grade-I) due to non-availability of vacancy in the

respective category. Their case of promotion to SGHC drivers will be considered as and when vacancy will arise.

5. Learned counsel, Mr. Pal appearing for the respondents submitted that the petitioners are entitled to get promotion to the posts of SGHC driver(Grade-I), but simply because of non-availability of the posts they could not be promoted. The DPC already found them fit to be promoted, but only because of the vacancy is not available they could not be promoted as SGHC drivers(Grade-I). In para 6(XIX) of the counter affidavit, the respondents stated thus :-

"(xix) In reply to the statements made in paragraphs 13, 14, 15, 16, 17 and 18 of the WP, it is submitted that the petitioners are eligible for promotion to the post of Selection Grade Head Constable Driver - Grade I. A Departmental Promotion Committee (DPC for short) was constituted for consideration of the petitioners and others for promotion and found them fit for promotion but they could not be promoted due to non-availability of vacancies. The petitioners would be promoted on availability of vacancy on the recommendation of the DPC."

6. Learned senior counsel, Mr. Chakraborty has submitted that the assurance that the petitioners will be promoted in the event the vacancies would be available was given in 2010, but till today none of the petitioners has been promoted and some of them have already been retired.

7. There is nothing brought on record that there are vacancies available, whereas the petitioners have not been promoted in spite of the vacancies.

8. Under such circumstances, I think the writ petition may be disposed of with a direction to the respondents to give promotion to the petitioners in SGHC drivers(Grade-I) within three months in the event of availability of vacancies according to Rules. Ordered accordingly.

9. With the above observations and directions, the writ petition stands disposed of. Parties to bear their own costs.

JUDGE