

THE HIGH COURT OF TRIPURA
AGARTALA

W.A. 41 of 2014

Shri Nabarun Debnath,
S/O. Shri Khagendra Chandra Debnath,,
Resident of village West Pratapgarh,
P.O. – A.D. Nagar, Agartala, West Tripura.

..... *Appellant*

- Vs. -

1. The State of Tripura,
Represented by the Secretary to the
Government of Tripura,
Home Department, Capital Complex,
P.O. Kunjaban, P.S. East Agartala.
2. Inspector General of Prisons,
Government of Tripura,
Banamalipur, P.S. East Agartala,
District – West Tripura, P.O.- Agartala,
Pin – 799001.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE U.B. SAHA

For the appellant : Mr. A.K. Bhowmik, Sr. Advocate.
Mr. R. Datta, Advocate.

For the respondents : Ms. A.S. Lodh, Addl. GA.

Date of hearing & : 01.10.2015.
delivery of
Judgment & order

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ.)

By means of this appeal, the petitioner has challenged
the judgment dated 02.04.2014 passed by a learned Single Judge

of this Court whereby, the writ petition filed by the appellant was dismissed.

2. The brief facts of the case are that the State of Tripura issued an advertisement inviting applications for the post of Jail Warden (Male). The petitioner also applied for the post of Jail Warden (Male) and he applied in the category of Civil Defence Volunteer. He was offered appointment but later this offer was withdrawn on the ground that he did not fulfill the basic eligibility criteria of having 4 years experience as a Civil Defence Volunteer. The learned Single Judge held that the petitioner did not fulfill the eligibility criteria and therefore, rejected the writ petition.

3. On behalf of the appellant, it is urged that in terms of the Notification dated 19th August, 1997, the petitioner had completed more than 4 years and in fact being working as a Home Guard or Civil Defence Volunteer for more than 6 years and therefore, he fulfilled the eligibility criteria and was rightly offered appointment.

4. Para 3 of the Notification dated 19th August, 1997 reads as follows:-

"3. It has been further decided by the Government that while filling up the posts of Fireman or Constable or Jail Warden a maximum of 40% of the available posts shall be filled up from among the eligible Home Guards and Civil Defence Volunteers (35% from the Home Guards and 5% from Civil Defence Volunteers) failing which the posts shall

be filled up by direct recruitment. For being eligible, the Home Guards and Civil Defence Volunteers should have a minimum of 4 years of experience as Home Guards or Civil Defence Volunteers. They should also not be more than 26 years of age on the date of enrollment as Home Guards or Civil Defence Volunteer and not more than 37 years of age on the 1st January, or the years in which recruitment for the post of Fireman or constable or Jail Warder is being considered. They must satisfy the prescribed physical measurements. The educational qualification shall be relaxable up-to Class-VIII Passed for Home Guards and Civil Defence Volunteers."

5. The quoted portion of the Notification makes it clear that the Government had thought it fit to reserve 40% posts of Jail Warders to be filled up from Home Guards and Civil Defence Volunteers in the ratio of 35% and 5% respectively. For being eligible the Home Guards and Civil Defence Volunteers should have a minimum 4 years of experience as Home Guards or Civil Defence Volunteers. We are not concerned with the other age criteria.

6. According to Mr. A.K. Bhowmik, learned senior counsel, the relevant date is the date of appointment which in the present case is 2013. However, according to Ms. A.S. Lodh, learned Addl. GA, the relevant date is 2009. According to her, the relevant date would be the date of advertisement.

7. In our view, in case, when no date is fixed in the advertisement, the relevant date would be the last date for submission of applications because any person who is not eligible could not even been called for the interview. Not only that, in the

present case the interview was conducted in the year 2009 and at that time, the petitioner had only completed 2 years service as Civil Defence Volunteer and did not fulfill the eligibility criteria of having minimum service of 4 years as Civil Defence Volunteer.

8. We are not at all in agreement with Mr. Bhowmik that the relevant date is 2013 because that is the date of appointment. The date of consideration is either the date of last date for submission of applications or even if the case of the petitioner is taken at the best the date on which the candidates for actually considered i.e. the date of interview. He was not eligible at that time.

9. We, therefore, find no merit in the appeal which is, accordingly, dismissed. No costs.

JUDGE

CHIEF JUSTICE

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