

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.89 of 2012

- 1. Sri Sanjoy Kumar Bhowmik,**
son of late Lalmohan Bhowmik,
resident of village & P.O.
Gokulnagar, P.S. Bishalgarh, District -
West Tripura
- 2. Sri Bhaskar Sarkar,**
son of late Pramode Ranjan Sarkar,
resident of village & P.O. Banamalipur,
L.N. Bari Road, P.S- West Agartala,
District - West Tripura

..... Petitioners

- V e r s u s -

- 1. The State of Tripura,**
represented by the Commissioner &
Secretary, General Administration
(Personnel & Training) Department,
Govt. of Tripura, having the office at
Pandit Nehru Complex, Gurkhabasti,
P.O. Kunjaban, P.S. East Agartala,
Sub-Division- Sadar, District- West
Tripura
- 2. The Secretary,**
Home Department, Govt. of Tripura,
having the office at Pandit Nehru
Complex, Gurkhabasti, P.O.-
Kunjaban, P.S. East Agartala, Sub-
Division- Agartala, District- West
Tripura
- 3. Tripura Public Service Commission,**
represented by its Secretary, having
the office at Agartala, near Old
Secretariat, P.O. Agartala, P.S. West
Agartala, Sub-Division- Sadar, District-
West Tripura
- 4. The Director General of Police,**
Govt. of Tripura, having the office at
Pandit Nehru Complex, Gurkhabasti,
P.O. Kunjaban, P.S. East Agartala,

Sub-Division- Sadar, District- West
Tripura

5. **The Joint Secretary,**
the Govt. of Tripura, Home Department,
having the office at Pandit Nehru Complex,
Gurkhabasti, P.O. Kunjaban, P.S. East
Agartala, Sub-Division- Sadar, District- West
Tripura
6. **Sri Bidhu Bhusan Das,**
son of late Jatindra Mohan Das,
resident of village & P.O. Baruakhali,
P.S.-Dharmanagar, District - North
Tripura
7. **Sri Debashis Debbarma,**
son of late Chitorendra Debbarma,
resident of village- Thakurpalli Road,
in front of Satsangha Bihar, P.S.
West Agartala, P.O. Agartala, District
West Tripura
8. **Sri Ranadeb Das,**
son of late Kshirode Ranjan Das, care
of Ranjit Das, resident of village
Bordowali, P.O. Agartala, P.S. West
Agartala, Sub-Division- Sadar,
District - West Tripura
9. **Sri Krishnadhan Das,**
son of late Jagabandhu Das,
resident of village Joynagar, Kshirode
Sen Lane, P.S. West Agartala, P.O.
Agartala, Sub-Division- Sadar,
District- West Tripura
10. **Sri Chandi Kumar Chakma,**
son of Sri Tanu Mohan Chakma,
resident of Ratanpur, P.O & P.S.
Belonia, District- South Tripura
11. **Sri Prava Ranjan Debbarma,**
son of Sri Krishna Charan Debbarma,
resident of Bordowali, P.S. West
Agartala, P.O. Agartala, Sub-
Division- Agartala, District - West
Tripura

- 12. **Sri Birendra Debbarma,**
son of late Tilak Chandra Debbarma,
resident of village & P.O. Amtali,
P.S. Amtali, District- West Tripura
- 13. **Sri Sashi Mohan Debbarma,**
son of Sri Dwarakanath Debbarma,
resident of village Badramissip Para,
P.O. & P.S. Jirania, District-West
Tripura
- 14. **Sri Ajoy Debbarma,**
son of Sri Runu Debbarma,
resident of village & P.O. Dhup
cherra, P.S. Ranirbazar, District-
West Tripura
- 15. **Sri Sukhomoy Chakma,**
son of late Narayan Chakma,
resident of village & P.O.
Chailengta, P.S. Longtharai Valley,
District- Dhalai Tripura
- 16. **Sri Swapan Deb,**
son of late Chandra Kishore Deb,
resident of village & P.O.
Gangatipur, P.S. Sidhai, District-
West Tripura

..... Respondents

BEFORE
THE HON’BLE MR. JUSTICE S. TALAPATRA

For the petitioners : Mr. Somik Deb, Advocate.
For the official respondents : Mr. S. Chakraborty, Addl. G.A.

Date of hearing and delivery
of Judgment & Order : **20.08.2015**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. Somik Deb, learned counsel appearing for
the petitioners as well as Mr. S. Chakraborty, learned Addl. G.A.

appearing for the official respondents. None appears for the private respondents when the matter is taken up for hearing.

[2] Mr. Chakraborty, learned Addl. G.A., in terms of the order dated 11.08.2015, has produced the written instruction dated 17.08.2015 which is available in the File No.R.-23/DGP/LC/2012 as well as the records of the DPC by recommendation of which the vacancies those arose before the amendment of the recruitment rules for appointment to the post of Inspector of Police which came into force w.e.f. 11.07.2007, have been filled up.

[3] Mr. Somik Deb, learned counsel appearing for the petitioners has submitted that the petitioner No.1 Sri Sanjoy Kumar Bhowmik was appointed as the Sub-Inspector of Police on 02.12.1985 and the petitioner No.2 Sri Bhaskar Sarkar was appointed as the Sub-Inspector of Police on 09.12.1987 and both the petitioner No.1 and petitioner No.2 had cleared the departmental examination respectively on 19.11.1994 and 31.01.1995. As such, both the petitioners were eligible to be considered for appointment to the post of Inspector of Police on promotion in terms of the old recruitment rules. The petitioners herein along with the other writ petitioners filed the writ petition being W.P.(C) No.207 of 2007, canvassing their grievance that if the recruitment rules as amended is given effect to they would lose their opportunity of getting promotion. After due

consideration, the said writ petition was disposed of by the order dated 18.02.2011 with the following observation and directions:

On a consideration of the pleadings of the parties and upon hearing their learned counsel, we are of the view that in the factual premise as narrated hereinabove and in the backdrop of relaxation vis-a-vis the upgradation in the academic qualification by the Government vide communication dated 03.08.2007 it would not be wholly out of place for it to have a review of the fact situation as a whole and take an appropriate decision vis-a-vis the remaining petitioners as above. We feel persuaded to make this observation in view of the fact that before the amendment to the Rules all the petitioners admittedly judged by their educational qualification were eligible for being considered for promotion to the post of Inspector of Police in the Department. The amendment to the Rules logically is not their doing and it is because of such a fortuitous circumstance that at present though many of their equally placed colleagues are in the higher ranks of the service they stagnate at a lower post in the hierarchy. The State Government which is acclaimed to be a model employer therefore, ought not to turn a Nelson's eye to such cases. These observations, however, are de hors any comment on the legality or validity of the amendment and being construed to be warranted in the typical facts and circumstances.

In the above view of the matter, this petition is closed by leaving the State Government at liberty to take an appropriate decision in its discretion to relax the requirement of the academic qualification of graduation for promotion from the post Sub Inspector of Police to that of Inspector of Police in the Department vis-a-vis the petitioners who are still in the post of Sub Inspector of Police without, however, creating a precedent.

We make it clear that we have not issued any direction to the State Government in this regard and we leave it at its discretion to do the needful. As the petitioner wait in expectation, it would be appropriate if the State Government takes a befitting decision with utmost expedition.

Needless to say if the petitioners still remain aggrieved, they would be at liberty to approach this Court or any other appropriate Court of law for redress.

[4] It is not in dispute that even before the order dated 18.02.2011 was passed, the State Government took a conscientious decision for relaxing the educational qualification of the common recruitment rules for the post of Inspector (UB & AB), men and women for appointment of under graduate Sub-Inspector of Police to the post of Inspector of Police which has been reflected in their communication under No.F.1(46)0-PD/05 dated 03.08.2007. For purpose of reference, the entire text of the communication is extracted hereunder:

The undersigned is directed to refer you letter No.549/DGP/PS/2007 dated 25th July, 2007 on the above cited subject and to state that Government has decided for one time relaxation of the educational qualification criteria as provided in the newly introduced Common Recruitment Rules so as to enable the Police Department to consider the names of undergraduate Sub-Inspector of Police while filling up the vacancies that were available before the introduction of Common Recruitment Rules. However, it is also decided that the vacancies that have arisen in the cadre of Inspector of Police after introduction of the Common Recruitment Rules should be filled up in accordance with the provision of newly introduced Common Recruitment Rules.

2. In view of the above, the undersigned is directed to request you to kindly take necessary action accordingly

under intimation to this Department. The Hon'ble High Court may kindly be informed of this decision of the State Government most immediately under a special petition so that promotion to the eligible candidates to the post of Inspector may be effected.

[5] By virtue of that decision as taken by the State Government for giving one time relaxation of the provisions of the amended recruitment rules, it is not in dispute that all the vacancies available prior to 11.07.2007 were filled up considering the eligible candidates in terms of the old recruitment rules, meaning that, even the under graduate Sub-Inspector of Police who completed the departmental examination were also considered and on the basis of the recommendation made by the DPC, the persons who were holding the higher position in the gradation list were appointed and promoted subject to their fitness. From the records produced today by the respondents, it appears that before the amendment was carried out, there were total vacancies of 56 out of which 13 vacancies were earmarked for SC category, 13 vacancies were earmarked for ST category and other 30 vacancies were earmarked for UR category candidates. On the relevant time i.e. immediately after the common recruitment rules was brought into effect, only 11 vacancies were considered in terms of the newly amended recruitment rules. This Court is not primarily concerned with those 11 vacancies but concerned with 56 vacancies which fell vacant before the amendment was carried out. None of the petitioners falls in the

category of the SC and ST. They are to be considered under the UR category. From the DPC records, this Court finds that the DPC had considered both the petitioners and they are found to be fit but they could not be accommodated by way of promotion as the persons, who were fit and holding the highest gradation position, they were first accommodated and against 30 vacancies the persons, holding the seniority position above at Sl. No. 50 in the gradation list were accommodated against those 30 vacancies. It is also not in dispute that the petitioner No.1 and the petitioner No.2 were at the relevant point of time holding the seniority position number 50 and 75 and as such, they could not be accommodated. Hence, this Court does not find any infirmity in the process of promotion. Moreover, the State-respondents after giving the further relaxation in their educational qualification appointed the petitioners to the post of Inspector of Police on promotion on 03.11.2011.

[6] In the circumstances, this Court is of the considered opinion that this writ petition is devoid of merit and accordingly, the same is dismissed. The records as produced by Mr. Chakraborty, learned Addl. G.A. are returned.

However, there shall be no order as to costs.

JUDGE

Sujay