

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.347 OF 2012

1. Sri Dulal Debnath,

S/O Late Jagadish Debnath,
Resident of Durjoynagar,
P.O. Durjoynagar, P.S. Airport,
West Tripura.

2. Md. Abdul Sahid,

S/O Md. Autub Ali,
Kalicherra, P.S. Churaibari, Dharmanagar,
District-North Tripura.

3. Sri Tejaram Khereshya,

S/O Sri Jagadish Prasad Khereshya,
P.O. Bhopatpura,
District-Sikar, Rajasthan.

4. Sri Aswini Kumar Debbarma,

S/O Late Naba Chandra Debbarma,
R/O Katalutma, P.S. Salema, Kamalpur,
District-Dhalai.

..... *Petitioners*

- *Vs* -

1. The State of Tripura,

(represented by the Commissioner to the
Government of Tripura,
Department of Home,
Civil Secretariat, New Capital Complex,
Kunjaban, Agartala, West Tripura, Pin-799006.

2. The Director General of Police,

Government of Tripura,
Akhaura Road, Fire Service Chowmuhan,
Agartala, West Tripura, Pin-799001.

3. The Inspector General of Police(Adm & Trg),

Government of Tripura,
Akhaura Road, Fire Service Chowmuhan,
Agartala, West Tripura, Pin-799001.

**4. The Deputy Inspector General of
Police(AP), (Admn. & Trg.),**

Government of Tripura,

Arundhuti Nagar, Agartala,
West Tripura, Pin-799005.

..... Respondents

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

For the petitioners : Mr. P. Roy Barman, Advocate

For the respondents : Mr. S. Chakraborty, Addl. G.A.

Date of hearing & delivery
of Judgment & order : **17.09.2015.**

Whether Fit for Reporting :

Yes	No
	✓

JUDGMENT & ORDER(ORAL)

Heard learned counsel, Mr. P. Roy Barman for the petitioners and learned Addl. G.A., Mr. S. Chakraborty for the respondents.

2. Undisputed facts are that the petitioners were initially recruited as Rifleman(GD) in the Tripura State Rifles(TSR) and subsequently they were promoted as Havildar(Clerk) of TSR by order dated 10.02.2004 issued by Dy. Inspector General of Police(Annexure-P/8 to the writ petition). Subsequently, by an order dated 25.10.2005 issued by the Director General of Police(Annexure-P/9 to the writ petition) the promotion order in respect of the petitioners in the post of Havildar(Clerk) was cancelled. Challenging that order the petitioner No.1 preferred WP(C) No.483 of 2005, petitioner No.2 preferred WP(C) No.480 of 2005, petitioner No.3 preferred WP(C) No.484 of 2005 and

petitioner No.4 preferred WP(C) No.481 of 2005 before the Agartala Bench of the then Gauhati High Court and by a common judgment passed on 01.09.2010 the High Court disposed all those four writ petitions with the following orders:

".....

31. Having regard to the specific and unambiguous language employed in Rule 37 of the Recruitment Rules, in my view, there is no scope whatsoever to suppose that the prohibition on the applicability thereof interpreted by the respondents is appropriate and, accordingly, the impugned order of reversion by canceling the petitioners' promotion/appointment as Havildar(Clerk) is apparently illegal. Accordingly, the impugned order is set aside and quashed.

In the result the writ petition is allowed. However, I pass no order as to costs."

3. In view of the above order of the High Court, the office of the Director General of Police issued order dated 16.11.2010(*Annexure-P/11* to the writ petition) reinstating the petitioners as Havildar(Clerk) w.e.f. 24.10.2005. The order dated 16.11.2010 reads as follows:

*"Government of Tripura
Office of the Director General of Police
Tripura ::: Agartala.
(Legal Cell)*

O R D E R

Hon'ble Gauhati High court, Agartala Bench vide common judgment and order dated 01-09-2010 passed in case no.WP©-480, 481, 483 & 484 OF 2005, has

quashed the reversion orders of the following writ petitioners.(Copy of Judgment and order dated 1-9-2010 is enclosed).

- (i) Tejaram Khareshya of 7th BN TSR reverted from the post of HAV(Clerk) to NK(Operator) vide order No-851-55/R-119/DGP/LC/2004(L) dated 25-10-2005.*
- (ii) Aswani Kumar Debbarma of 3rd BN TSR reverted from the post of HAV(Clerk) to NK(operator) vide order No.836-40/R-119/DGP/LC/2004(L) dated 25-10-2005.*
- (iii) Abdul Sahid of 3rd BN TSR reverted from the post of HAV(Clerk) to NK(Operator) vide order No.831-35/R-119/DGP/LC/2004(L) dated 25-10-2005 and*
- (iv) Dulal Debnath of 9th BN TSR reverted from the post of HAV(Clerk) to NK(Medical Assistant) vide order No.846-50/R-119/DGP/LC/2004(L) dated 25-10-2005.*

In compliance of the above judgment and order dated 1-9-2010, the concerned appointing authorities are hereby directed to issue order of reinstatement of the above TSR personnel to the post of HAV(Clerk) from the date of reversion i.e. from 24-10-2005 with admissible pay and allowances.

(S.R. DAS)

*Asstt. Inspr. Genl. Of Police(Pers)
For Director General Of Police,
Tripura."*

4. It is also an undisputed that that in the meantime *i.e.* during the period from 25.10.2005 to 01.09.2010 there were several orders issued by the authority promoting some of the

Havildars(Clerks) to the post of Naib Subedar(Clerks). The petitioners made representation for their promotion to the post of Naib Subedar(Clerk) since they have already served the required period as per rules and they were eligible for promotion and that their juniors were already promoted to the post of Naib Subedar(Clerks).

5. Learned counsel, Mr. Roy Barman prayed for directing the respondents to give promotion to the petitioners as per the provisions prescribed in Rule 39 of Tripura State Rifles(Recruitment) Rules, 1984.

6. Learned Addl. G.A., Mr. Chakraborty has fairly submitted that the petitioners are eligible for promotion but subject to the departmental examination, if any and compliance of other requirements as per rules.

7. Rule 39 of the TSR(Recruitment) Rules prescribes the relevant provision of recruitment for the posts of Naib Subedar(Clerks) which reads as follows:

"39. Recruitment Rules for the posts of Naib Subedar(Clerks).

(1) These posts shall be filled by promotion on the basis of seniority, subject to rejection of unfit, from amongst Havildar clerks of the Rifles who have—

- (a) *Put in at least 5 years service as Havildar Clerks and*
 - (b) *Passed such examination in office procedure and Accounts as may be laid down by the Inspector-General by order in writing.*
- (2) *The Departmental promotion committee for the promotion specified in sub-rule(1) shall be the same as is specified in sub-rule (2) of rule 38.*
- (3) *In case filling of these posts by method specified in sub-rule(1) is not possible, these posts may be filled by re-employment of ex-services or ex-Central Police Organisation personnel or by deputation or transfer of serving personnel of State or Central Police Organisation.*
- (4) *To be eligible for re-employment, an ex-services or ex-Central Police Organisation personnel should—*
 - (a) *Have retired or discharged as clerk not earlier than 24 months of such re-employment in corresponding rank or as a Havildar clerk or as Assistant Sub-Inspector of Police Clerk in which case he should have put in at least 10 years service as Havildar Clerk or Assistant Sub-Inspector of Police clerk in formation concerned.*
 - (b) *Have possessed exemplary or very good character while in his previous service;*
 - (c) *Not have attained the age of 47 years on 1st day of July of the year in which appointment is made; and*

- (d) Have been approved for such re-employment by the Inspector-General, who may relax any of the conditions specified in this sub-rule, in suitable cases, by order in writing.*
- (5) To be eligible for deputation or transfer, a personnel of a State or Central Police Organisation should—*
 - (a) Hold the rank/post of an upper Division Clerk in his parent Organisation; and*
 - (b) Have been approved for such transfer or deputation by the Inspector-General.*
- (6) The persons appointed by deputation or transfer mentioned in sub-rule (5) shall be subject to the same liability for undergoing training as is specified in sub-rule(6) of rule 38."*

8. Had the petitioners' promotional order to the post of Havildar(Clerk) not cancelled by impugned order dated 25.10.2005 their case for consideration for promotion to the post of Naib Subedar(Clerk) would have been considered by the authority long before. Though after the order passed by the High Court they have been reinstated w.e.f. the date their promotion was cancelled, but it is a fact that they did not get the scope of being considered for promotion to the post of Naib Subedar(Clerk).

9. The respondents authorities, are therefore directed to consider the case of the petitioners for their promotion to the post of Naib Subedar(Clerks) according to rules and in case of their

promotion they should be given their seniority notionally from the date their juniors were promoted to the post of Naib Subedar(Clerk). The process should be completed within three months from today.

10. With the above observation and direction this writ petition stands disposed of.

JUDGE