

IN THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 393 OF 2012

0208000 Subeder(GD) Sri Atter Singh,
son of late Dhanpal, 13th Bn. TSR (IR – IX),
P.O. Kanchanpur, North Tripura District.

.....Petitioner

- Vs -

1. The State of Tripura, represented by the Secretary ,
Home Department, Government of Tripura, New
Secretariat Complex, P.O. Kunjaban, Agartala, West
Tripura, PIN 799006.

2. The Director General of Police, PHQ, Agartala, P.O.
Agartala, PIN 799001, West Tripura District.

3. The Assistant Inspector General of Police (Ops)PHQ,
Agartala, P.O. Agartala, PIN 799001, West Tripura
District.

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. C.S. Sinha, Advocate.

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

Date of hearing & delivery : 03.09.2015
of judgment and order

Whether fit for reporting : **No.**

JUDGMENT & ORDER (ORAL)

Heard Mr. C.S. Sinha, learned counsel appearing for the petitioner as well as Ms. A.S. Lodh, learned Addl. G.A. appearing for the respondents.

[2] The dispute raised in this writ petition falls within a very short compass. The petitioner even though has completed the required qualifying service but according to the respondents he was lacking in the essential qualification of graduation as required by the relevant rules for promotion to the TPS, Grade-II. According to the petitioner, he had that qualification in terms of the certificate No. 011560 dated 28.02.2002 (part of Annexure-3 to the writ petition). The said certificate provides as under:

INDIAN ARMY GRADUATION CERTIFICATE

1. As per Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) OM No. 15012/8/82/ESTT (D) dated 12 Feb, 1986 Ex-servicemen who are matriculate (which terms includes ex-servicemen who have obtained the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or the Air Force), and have put in not less than 15 years of service in the Armed Forces of the Union may be considered eligible for appointment to any reserved vacancy in Group 'C' posts for which the essential qualification is graduation and where experience of technical or professional nature is not essential.

2. It is therefore certified that Number - JC-169975 Rank (Ex) SUB/MAJ Name & Initials ATTER SINGH Trade (AIG) who had served in the Indian Army for 28 years from 26.02.74 to 01 March 02 is to be considered educationally

qualified for reserved Group 'C' posts where prescribed qualification is graduation.

[3] It is apparent from the said certificate that as per Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) OM No. 15012/8/82/ESTT (D) dated 12 Feb, 1986 Ex-servicemen who are matriculate (which terms includes ex-servicemen who have obtained the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or the Air Force), have put in not less than 15 years of service in the Armed Forces of the Union may be considered eligible for appointment to any reserved vacancy in Group 'C' posts for which the essential qualification is graduation and where experience of technical or professional nature is not essential.

[4] No doubt that by the said office memorandum dated 12.02.1986, the special certification has been made for the ex-serviceman who has completed 15 years of service in the armed forces, such as the petitioner. That certification is valid for the post in the Group- C category under the Union of India. But the petitioner was expecting for promotion to the post of Tripura Police Service, Grade-II as he was borne in the feeder post of Subedar in the TSR. In terms of Rule-14 (3) of the Tripura Police Service Rules 1967, the essential and minimum qualification for appointment by promotion is graduation from the recognised university. The petitioner was appointed as the

Subedar (General Duty) in Tripura State Rifles by virtue of the communication dated 29.08.2002 (Annexure 3 to the writ petition). The respondents published a seniority list for the post of Subedar on 17.03.2010 showing the respective seniority position as on 01.03.2010. In the column for educational qualification, the petitioner's qualification has been shown to be 'X passed'. Against that entry, the petitioner served a demand notice dated 06.07.2010 for entering his educational qualification as graduation. But the respondent No.3 by his communication dated 04.08.2010 has categorically observed that on examination of his demand they did not find any merit in the claim of the petitioner. Accordingly, the said demand was turned down.

[5] Thereafter, the petitioner filed this petition for interference mainly for acceptance of the graduation certificate issued by the Record Officer as equivalent of the graduation from the recognised university. The respondents by filing a composite counter affidavit have categorically stated that:

"No deprivation is there as no Ex-servicemen re-employed as Subedar in TSR having Army graduation has ever been allowed any promotion to next higher post. No promotion to the rank of Asstt. Commandants in TSR/TPS Grade-II posts has taken place after issuance of the Modified Final seniority of Subedars in TSR Bns. Therefore, cannot claim any deprivation. The petitioner's academic qualification is matriculation. The petitioner is not even H.S.+2 qualified.

Hence, Army graduation is not to be recorded as academic qualification in the Service Book/seniority list."

[6] Having regard to the respective contentions raised by the learned counsel appearing for parties, this court is of the view that the army graduation is a status conferred on the persons who have completed 15 years of service in terms of Government of India's memorandum dated 12.02.1986 and that status cannot be equated with the graduation conferred by a recognised university, unless it is so recognised.

[7] Having held so, this writ petition does not merit any further consideration. Accordingly, the same is dismissed.

However, there shall be no order as to costs.

JUDGE

Sabyasachi B/ Sujay