

THE HIGH COURT OF TRIPURA AGARTALA

WP(C) NO.261 OF 2014

Shri Sandhyaram DebBarma,
S/o Late Surendra Debbarma,
Resident of village Harichandra Para,
P.O Champaknagar, P.S. Radhapur,
District:- West Tripura.

... Petitioner

- Vs -

- 1. The State of Tripura,**
Represented by the Secretary,
Department of Home, Govt. of Tripura,
Civil Secretariat, Capital Complex,
P.O. Kunjaban, Agartala, 799006.
- 2. Director General of Police,**
Government of Tripura, Agartala P.O.
Agartala, 799001.
- 3. Deputy Inspector General of Police, AP(Adm & Trg).**
Tripura, P.O Agartala, District:- West Tripura.
- 4. Assistant Inspector General of Police(OPS),**
Tripura, Agartala, PO Agartala,
District:- West Tripura.
- 5. Superintendent of Police,**
Security Tripura Agartala, PO
Agartala, District:- West Tripura.
- 6. Superintendent of Police,**
Gomati District, PO & PS RK Pur,
District :- Gomati.
- 7. The Commandant SAF,**
PO AD Nagar, District:- West Tripura.
- 8. Shri Gurupati Jamatia,**
Office Superintendent, Office of the Superintendent of
Police, Gomati District. PO & PS RK Pur, District Gomati.
- 9. Shri Bijoy Debbarma,**
Office Superintendent, Office of the
Commandant home guard Organisation,
PO AD Nagar, PS West Agartala,
District: West Tripura.

10.Smti Minati Das,

Office Superintendent,
Office of the Superintendent of Police,
Traffic, PO AD Nagar, PS West Agartala,
District: West Tripura.

11.Shri Dilip Kumar Malakar,

Office Superintendent,
Office of the Superintendent of Police,
Unokoti District, PO Kailashahar,
District:- Unokoti.

12.Shri Priyotosh Nath,

Office Superintendent,
Office of the Superintendent of Police,
West Tripura District(Police Head Quarter)
PO Agartala, District:- West Tripura.

13.Shri Ashim Kumar Bhattacharjee,

Office Superintendent,
Office of the Commandant SAF,
PO AD Nagar, District:- West Tripura.

14.Shri Ratan Bal,

Office Superintendent,
Office of the Superintendent of Police,
Special Branch, Agartala,
PO. Agartala, District:- West Tripura.

15.Shri Swapan Debbarma,

Office superintendent,
office of the Superintendent of Police,
Communications, PO. AD Nagar,
District:- West Tripura.

16.Shri Pradip Debnath,

Office Superintendent,
Police Head Quarters, Agartala, PO
Agartala District:- West Tripura.

17.Shri Swapan Kumar Bhattacharjee,

Office Superintendent,
Office of the Superintendent of Police,
CID,PO AD Nagar, District:- West Tripura.

18.Shri Ranjit Debbarma,

Office Superintendent,
Office of the Superintendent of Police,
West Tripura District Police Head Quarters
PO Agartala, District:- West Tripura.

....**Respondents**

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

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

For the respondents : Mr. T.D. Majumder, G.A.

Date of hearing
and delivery of Judgment
& order : **08.07.2015.**

Whether Fit for reporting : **NO**

JUDGMENT & ORDER (ORAL)

Heard learned Sr. counsel, Mr. A. K. Bhowmik for the petitioner, learned G.A. Mr. T. Dutta Majumder for the respondent Nos. 1 to 7 and learned counsel Mr. S. Roy for respondent Nos. 8 to 18.

2. The petitioner while was working as Head Clerk/Accountant under the Superintendent of Police, West Tripura, Agartala, was due to be promoted to the post of Office Superintendent and admittedly as per the seniority list published by the department as on 15.01.2014 (Annexure-1 to the writ petition), the petitioner was senior to private respondent Nos. 8 to 18 in the post of Head Clerk/Accountant. To fill up 33 vacant posts of Office Superintendent under the Police establishment of the Govt. of Tripura, a DPC was constituted and the DPC taken into consideration 22 Head Clerk/Accountants for promotion to the post of Office Superintendent which included the name of petitioner at Sl. No.8. Out of 33 posts, 6 posts were reserved for SC category, 10 posts reserved for ST category and 17 posts were for

unreserved category. The DPC recommended 18 candidates out of total 22 candidates for promotion to the post of Office Superintendent. The petitioner's name was not recommended on the ground that his overall ACR grading though was mentioned as 'good' but it was not consistent with the imputes in the ACR and therefore considered him as unfit for promotion.

3. The DPC minute which is annexed as Annexure-R/2 to the counter affidavit of the State-respondents shows that DPC taken into consideration the ACRs of the petitioner for the year 2008-09 (period from 01.04.2008 to 27.08.2008); 2010-11 and 2012-13 and observed that the overall grading were not consistent with the entries in some of the columns and therefore he was graded as 'average'.

4. At the time of hearing learned G.A. produced relevant ACRs of the petitioner and on perusal of the same, I find that in the ACR of the year 2008-09 overall grading recorded as 'good' and there is nothing adverse in the imputes recorded in Col. No.5 to 18 of the ACR form where the remarks of the authority has been recorded. So, I find that there is nothing in the ACR of 2008-09 to record anything adverse against the petitioner. Similarly, in the ACR of 2009-10 overall grading was recorded as 'good' and there is nothing adverse in the imputes in different columns.

5. In the ACR of the period from 01.04.2010 to 25.07.2010 as against Column Nos. 8, 9 and 11 it has been

recorded that the petitioner just meets the requirement and also the remark 'average' has been recorded but overall grading has been recorded as 'good'.

6. The ACR for the period from 26.07.2010 to 31.03.2011 also is almost similar to that of the ACR for the period from 01.04.2010 to 25.07.2010 and the overall grading has been recorded as 'good'. There is no adverse remark in the said ACR. Similarly in the ACR for the period from 01.04.2011 to 17.01.2012 also there is no adverse remark and the overall grading has been recorded as 'good'.

7. Only in the ACR for the period from 26.05.2012 to 31.03.2013, the remarks recorded in the particular columns of the ACR are found to be not consistent with the overall grading remark 'good'. The remarks in the column 5 to 18 of the ACR read as follows:-

05.	Honesty	: Scope for improvement
06.	Moral character & temperament including amenability to discipline, etc	: Scope for improvement
07.	Regularity and punctuality	: Irregular, Late comer
08.	Proficiency in office routine	: Does not fully fulfil the requirement of the post/job
	(a) Knowledge of rules and regulations	: Poor
	(b) Noting	: Poor
09.	Proficiency in accounts matters (application to accounts branch)	: Poor
10.	Neatness, handwriting	: Good
11.	Reliability, trustworthiness in handling secret and top secret matters and papers	: Not applicable.

(applicable to PA/ STENO/
Head Clerks)

- | | | | |
|-----|--|-----------------|--|
| 12. | Relations with superiors and attitude towards follow employees | : | Good (with superiors). Non cooperation with fellow employees |
| 13. | Power of supervision (applicable to OS/Head Clerks and Accountant) | : | Poor. |
| 14. | General assistance in ensuring the matters requiring attention are not lost sight of (applicable to PA/STENO/OS/Head Clerks) | : | Need improvement |
| 15. | Initiative and tack in dealing with telephone calls and visitors (applicable to PA/STENO/OS/Head Clerks) | : | Not applicable. |
| 16. | Fitness for promoting to higher grade in his turn
(i) Fit
(ii) Not yet Fit
(iii) Unfit | :

:
: | Not yet fit. |
| 17. | Defects, if any if the same have been brought to the notice of the officer reported upon | : | Verbally reminded to be careful & punctual. |
| 18. | General remarks (Special) characteristic and of any outstanding Marist or abilities may be mentioned | : | The employee is poor in his professional work as Accountant HC. He needs be groomed under big establishment like PHQ. He is in confident |

Grading is 'Good'

8. No doubt the remarks by the Reporting Authority in the ACR were adverse and against the interest of the petitioner and therefore, those adverse remarks were ought to be communicated to the petitioner and the scope ought to be given to the petitioner to submit his representation. No such adverse remarks were recorded in other ACRs taken to consideration by the DPC. DPC has recorded that it has taken into consideration the ACRs of the year 2008-09; 2010-11 and 2012-13 and the overall

grading were not consistent with the remarks in the columns of the ACR but in the ACR of 2008-09 and 2010-11 there is nothing adverse to arrive at a conclusion that the entries in the columns were not consistent with the overall grading. Only in the ACR of 2012-13 the entries in the particular columns are not in consistent with the overall grading but admittedly those adverse remarks were not communicated to the petitioner and he has been deprived of his due promotion taking into account those adverse remarks which was not justified. Since the adverse remarks were not communicated to the petitioner, the DPC was not supposed to take into consideration the remarks in the ACRs of the year 2012-13 and would consider the promotional aspect of the petitioner taking into account the ACRs of the other period. Though in the ACR of 2012-13 in the particular columns adverse remarks were recorded but overall grading was given 'good' which was considered as a benchmark for promotion. It was the ACR recorded by the Superintendent of Police (Security) and the Accepting Authority was Inspector General of Police (Intelligence). The DPC was headed by an Inspector General of Police (Administration). It is expected that the departmental authorities record their observation in the ACRs of an employee correctly and in case there is an adverse remark, it should be communicated to the employee concerned so that the employee concern can submit his representation if so desire. The DPC, as it appears, considered the promotion of 18 candidates and some of them had some 'outstanding' ACRs and others either 'good' or 'very good'. The

petitioner had no 'very good' ACR but other candidates had 'good' as well as 'very good' and 'outstanding' ACRs.

9. Under such circumstances, since the post of Office Superintendent is a selection post, the petitioner cannot get his position with his original seniority above the respondent Nos. 8 to 18. Since the adverse ACRs of the year 2012-13 were not communicated to the petitioner, I think the petitioner has a good case for consideration and accordingly, the writ petition is allowed to the extent that the petitioner should be promoted to the post of Office Superintendent with effect from the date his juniors were promoted but he will not get the seniority above the respondent Nos. 8 to 18.

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

11. Parties to bear their own costs.

12. The ACRs produced by learned G.A. is returned.

JUDGE