

THE HIGH COURT OF TRIPURA  
AGARTALA  
**WP(C) No.262 of 2012**

- 1. Sri Manik Chandra Das,**  
S/O. Sri Manindra Chandra Das,  
Vill-Noagaon, P.O. Bamutia  
Mohanpur, West Tripura.
- 2. Sri Anil Chandra Das,**  
S/O. Late Golakbasi Das,  
Vidyasagar, P.O. Jogendranagar  
Agartala, West Tripura.
- 3. Sri. Arun Debbarma**  
S/O. Late Debendra Debbarma  
Vill-Dhaldhali, P.O. Simna  
Mohanpur, West Tripura.
- 4. Sri. Kamala Kanta Debbarma**  
S/O. Sri Girindra Debbarma  
Ujan Abhoynagar, P.O. Abhoynagar  
Agartala, West Tripura.
- 5. Sri Samir Kumar Chakma**  
S/O. Late Ashok Chakma,  
Vill & P.O. Silacharra  
Sabroom, South Tripura.
- 6. Sri. Amit Roy Choudhury,**  
S/O. Late Arun Chandra Roy Choudhury  
Dhaleswar Nutan Pally, Road No.3,  
P.O. Dhaleswar, Agartala,  
West Tripura.
- 7. Sri Subrata Majumder,**  
S/O. Late Arun Kanti Majumder  
Old Kalibari Lane, P.O. Agartala  
West Tripura.
- 8. Sri Ranjit Kumar Das,**  
S/O. Late Rabindra Kumar Das,  
Ichai Joypur, P.O. Ichai Lalcherra,  
Dharmanagar, North Tripura.
- 9. Sri Phani Lal Bardhan**  
S/O. Late Prabhat Chandra Bardhan  
R.K. Nagar, P.O. Khasnoagawn,

Sadar, West Tripura.

**10. Sri Babul Chandra Das,**  
S/O. Late Jatindra Chandra Das  
Vill. & P.O. Sonatala, Khowai.

**11. Sri Debasish Das,**  
S/O. Late Gopendu Sekhar Das  
Dimsagar, Lake Chowmohani  
P.O. Agartala, West Tripura.

**12. Sri Jatan Das,**  
S/O. Late Haradhan Das  
South Dhaleswar, P.O. Agartala College,  
Agartala, West Tripura.

**13. Sri Biswanath Roy,**  
S/O. Sri Bidhan Chandra Roy  
Vill & P.O. Gandhigram,  
Mohanpur, West Tripura.

**14. Sri Tapas Majumder**  
S/O. Late Dinesh Chandra Majumder  
Vill- Bagabasa, P.O. Bagabasa,  
Udaipur, District- Goimati.

**15. Sri Shyamal Chandra Ghosh**  
S/O. Late Tarani Mohan Ghosh  
Vill-Ramcharra, P.O. Nabinagar,  
Bishalgarh, Sipahijala.

**16. Sri Sanjib Debbarma**  
S/O. Sri Narendra Debbarma,  
Advisor Chowmohani, Krishnanagar  
P.O. Agartala, West Tripura.

**17. Sri Tarun Bikash Talukdar**  
S/O. Late Sudhir Bikash Talukdar  
Vill-Santipara, P.O. Pecharthal,  
North Tripura.

**18. Sri Samir Debbarma**  
S/O. Late Sonadhan Debbarma,  
Pragati Road, Krishnanagar,  
P.O. Agartala, West Tripura.

**19. Sri. Utpal Chakma,**  
S/O. Sri Muktapada Chakma

Vill- East Chandmari, P.O. Kunjaban  
Agartala, West Tripura.

**20. Sri Brindaban Tripura,**  
S/O. Late Ramnarayan Tripura  
Vill & P.O. Dumacharra,  
LTV, Dhalai.

**21. Sri Tarani Sen Tripura,**  
S/O. Sri Mohan Chand Tripura  
Vill- Muktarampara, P.O. Jagabandhupur,  
Gandacherra, Dhalai.

**22. Sri Nayan Das,**  
S/O. Late Sukhen Das,  
Bhati Abhoynagar, P.O. Agartala  
West Tripura.

**23. Sri Surya Debbarma,**  
S/O. Sri Sisir Debbarma  
Vill- Bhuban Chantai,  
P.O. Brajendra Bazar  
Jirania, West Tripura.

**24. Sri Alok Mallik,**  
S/O. Late Manmohan Mallik  
Vill.& P.O. Sarasima,  
College Road, Belonia  
South Tripura.

**25. Sri Ratan Debnath,**  
S/O. Late Abhinash Chandra Debnath  
Vill- South Charilam, P.O. Bisramganj  
Bishalgarh, Sipahijala.

**26. Sri Pradip Bhowmik,**  
S/O. Late Swarna Kamal Bhowmik  
Vill & P.O. Badharghat, Agartala  
West Tripura.

**27. Sri Aniruddha Dhar Choudhury,**  
S/O. Late Ajit Dhar Choudhury,  
Melarmath, P.O. Agartala,  
West Tripura.

**28. Sri Abhijit Bhattacharjee**  
S/O. Sri Biswanath Bhattacharjee  
Vill. & P.O. Jogendranagar,

Agartala, West Tripura.

.....**Petitioners.**

**- Versus -**

- 1. The State of Tripura,**  
Through the Secretary to the  
Government of Tripura,  
GA (P & T) Department, Civil Secretariat,  
Agartala-799006.
- 2. The Secretary to the**  
Government of Tripura,  
GA (P & T) Department, Civil Secretariat,  
Agartala-799006.
- 3. The Deputy Secretary**  
to the Government of Tripura  
GA (P & T) Department, Civil Secretariat,  
Agartala-799006.

..... **Respondents.**

**BEFORE  
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA  
THE HON'BLE MR. JUSTICE S. C. DAS**

For the petitioners	: Mr. S. M. Chakraborty, Senior Advocate. Ms. D. Das, Advocate.
For the respondents	: Mr. B. C. Das, Advocate General. Mr. B. Banerjee, Advocate.
Date of hearing & delivery of Judgment & Order	: <b>19.8.2015.</b>
Whether fit for reporting	: <b>No.</b>

**JUDGMENT & ORDER (ORAL)**

*(Deepak Gupta, CJ)*

This petition has been filed by as many as 28 petitioners. All of them are working in the Department of Food, Civil Supplies and Consumer Affairs. Their grievance is that they

are being discriminated against in the matter of being considered for promotion to Tripura Civil Service (TCS) Grade-II.

2. The undisputed facts are that TCS Grade-II is a service in the State. There are two methods of recruitment to this service. 50% of the posts are filled in by direct recruitment on the basis of a competitive examination and 50% are filled in by way of promotion. Out of this 50%, 75% posts are filled in from amongst the feeder category belonging to certain departments referred to as Group A and 25% posts are filled in from amongst the feeder category belonging to some other departments referred to as Group B.

3. The grievance of the petitioners is that the Department of Food, Civil Supplies & Consumer Affairs has wrongly been placed in the feeder category in Group B and they only have avenue to fill in 25% of the promotional posts. The grievance is that there is no rationale and reasonable classification for discrimination between the departments in Group A who enjoys 75% quota in the promotion and Group B who enjoys 25% quota in the promotion.

4. According to the State, this is a policy decision and therefore, on 12.11.2014 we had passed the following order:

***“12.11.2014***

***The main challenge in this petition is that whereas Food Inspectors are similarly situated to Inspectors in other departments mentioned in Group-A of Schedule-IV but only 25% promotions are***

***made from Group-B of Schedule-IV whereas 75% promotions are made from Group-A. According to the petitioners, there is no rationale behind this discrimination between two equals.***

***In reply to this allegation, all that has been stated on behalf of the State is that this is a policy decision matter and it is the dominion of the Government and policy decision of the Government cannot be challenged in the Court of law.***

***This impression of the State is totally incorrect. Judicial Review of Administrative action is part of the basic structure of the Constitution.***

***We are fully aware of the fact that normally this Court is loathe to interfere in policy decisions. This Court normally does not substitute its opinion for the opinion of the executive or the legislative. However, even a policy decision can be challenged if it violates Article 14 of the Constitution of India. There must be some nexus shown for the discrimination made between the different categories of employees.***

***However, we feel that the State should be given another opportunity to put forth its case. It may file its reply within 8(eight) weeks from today.***

***List the matter on 04.02.2015.”***

5. Consequent to the said order being passed a new affidavit has been filed and it would be apposite to refer to certain portions of the affidavit:

***“4. That in order to examine the question as to which posts would be the feeder posts in respect of integrated Tripura Civil Service, a Committee of Secretaries was constituted for the purpose. The Committee after deliberation, opined that the Departments which contributed large number of 'duty posts' to the integrated TCS should be given due weightage and more percentage of promotion quota. Because in these Departments, there was hardly any avenue of***

*promotion for the subordinate officers except promotion to the integrated TCS. The Committee observed that there were a number of other Departments which contributed very few of their posts as 'duty posts' to the integrated TCS retaining a major portion of promotion posts to be filled up by the subordinate officers of the Departments and as such their quota of promotion in the integrated TCS should be less. The Committee was also of the view that a small percentage for promotion may be kept for the brilliant junior officers of the Departments. Applying the above criteria, the Committee recommended that the feeder posts may be placed in three groups: Group-A with 75%, Group-B with 12.5% and Group-C with 12.5% as promotion quotas.*

.....

*7. That thereafter by the Tripura Civil Service (8<sup>th</sup> Amendment) Rules, 1982 appropriate amendments were made in Rule 5. In the year 1996 by the Tripura Civil Service (17<sup>th</sup> Amendment) Rules, 1996 the schedule was amended by including some new posts in Group-A and Group-B. In 2001, by the Tripura Civil Service (21<sup>st</sup> Amendment) Rules, 2001 the condition of eligibility and procedure of selection was amended with 5 years of regular service for both Group-A and Group-B. By the 22<sup>nd</sup> amendment in 2002 some other posts were added in Group-A and Group-B. Lastly by 28<sup>th</sup> amendment in the year 2011, some new posts were added and they were placed against their corresponding Departments. The post of Inspector of Food was placed in Group-B as the Food and Civil Supplies Department was originally placed in Group-B. ”*

6. It is not that the categorization has been done by *drawing lots out of a hat*. A Committee of Secretaries met to decide which department should be kept in Group A and which department should be kept in Group B. The Committee also drew up some criteria in this regard. The first criteria was that if certain departments contribute large number of duty posts in the

integrated TCS then that department should be given due weightage and more percentage in promotion. Another criteria was that in certain departments there was hardly any avenue of promotion for subordinate officers expect promotion to the integrated TCS and in such cases also such advantage could be given. According to the State, it has followed these criteria while considering which departments should fall in Group A and which is Group B.

7. This Court is not sitting as an Appellate Authority in such matters. Judicial review of administrative action is limited to see whether the action has been taken in accordance with well settled principles. It is for the State to decide the Recruitment Rules for a particular post. It is for the State to decide what are the eligibility criteria for filling up the posts. In cases of promotions, it is for the State to decide who shall be in the feeder category. The Courts normally do not interfere in these matters unless the decision of the State is perverse.

8. After considering the reply of the State, we are clearly of the view that the criteria chosen by the State are reasonable criteria namely; (i) what is the contribution of the particular service to the integrated TCS and (ii) whether in the original service the employees have reasonable chances of promotion or not. Keeping these criteria in mind the Committee of Secretaries had decided which department should fall in Group A and which department in Group B. This exercise has been done by following certain criteria and these criteria are



very reasonable criteria. The classification cannot be held to be bad and, therefore, we find no merit in the petition which is, accordingly, dismissed.

**JUDGE**

**CHIEF JUSTICE**

*Satabdi*