

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No.384 of 2023**

Sri Sumen Deb, S/o Sri Krishna Kumar Deb, resident of Gandhi Gram,  
Madhypara, PO: Gandhi Gram, District West Tripura, PIN: 799012

.....Petitioner(s)

Versus

1. The State of Tripura represented by the Secretary, Rural Development  
Department, Government of Tripura, New Secretariat Complex, P.O.  
Secretariat, Agartala, PIN- 799010, Agartala, Tripura

2. The Chief Engineer, Rural Development Department, P.N. Complex,  
PO: Kunjaban, District West Tripura, Agartala

3. The Tripura Public Service Commission, represented by its Secretary,  
PO: Agartala, West Tripura, PIN: 799001

.....Respondent(s).

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For Petitioner(s) : Mr. C.S. Sinha, Advocate.

For Respondent(s) : Mr. Karnajit De, Addl. G.A.,  
Mr. Raju Datta, Advocate.

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**

**Order**

**28/06/2023**

Heard Mr. C.S. Sinha, learned counsel for the petitioner and  
Mr. Karnajit De, learned Additional Government Advocate, for the  
respondents-State. Also heard Mr. Raju Datta, learned counsel for the  
respondent-TPSC.

2. Petitioner was upgraded as Junior Engineer Grade-I w.e.f.  
16.06.2011. He is governed by the Recruitment Rules of 2005 which were

amended by R.D. Department (2<sup>nd</sup> Amendment) Recruitment Rules, 2008 notified on 21.06.2008 which prescribed as under :

**“11. (a) By Promotion – For Junior Engineer Grade-I, 29% of the posts of Junior Engineer Grade-I shall be filled by Diploma holder engineers from Junior Engineer Grade-II with 4(four) years regular service.”**

Petitioner qualified the Departmental Examination also. Thereafter, the Recruitment Rules of 2011 were brought into force. Being aggrieved by the delay in upgradation to the post of Junior Engineer Grade-I, he approached this Court in WP(C) No.1099/2018 which was disposed of vide order dated 25.02.2020 in the following manner :

*“[16] Having appreciated the submission of the learned counsel for the parties, this court is of the view that, as the recruitment rules of 2005 has not been challenged, the action of the respondents cannot ex facie be said to be in violation of any rules nor can it be said that the amendment was beyond competence. But the contention as raised by the counsel for the petitioner is precisely that when the qualifying service was again made to 4(four) years, a duty was cast upon the respondents to consider whether the benefit can be extended to the eligible persons with retrospective operation. If the retrospective operation was provided, nobody in the service would have been prejudiced, but it would have brought about promotion of the petitioner and he would have received some financial benefits. But that aspect has not been truly considered by the respondents. Even though, this court is not inclined to grant any relief as prayed by the petitioner, but it thinks it*

*apposite to direct the respondents to consider whether the movements/promotion to the petitioner can be given retrospectively in terms of the Recruitment Rules, 2011 to the post of Junior Engineer, Grade-I under the R.D. Department, Government of Tripura [Annexure-19] or not. The petitioner is permitted to file a fresh representation for consideration in order to get the promotion to the post of Junior Engineer, Grade-I, retrospectively.*

[17] *In terms of the above, this writ petition stands disposed of.”*

3. Petitioner's representation made thereafter has been rejected by a Speaking Order dated 25.01.2021 [Annexure-6] passed by the Rural Development Department, Government of Tripura. The department has, after examination of the relevant rules and after obtaining opinion from the Law Department as well as General Administration (Personnel & Training) Department, Government of Tripura, came to a conclusion that retrospective effect of the promotion to the post of Junior Engineer Grade-I w.e.f. 14.01.2010 cannot be considered since at that time, another Recruitment Rules of 2008 was applicable. It was also held that promotion to the petitioner cannot be given retrospectively in terms of Recruitment Rules, 2011 to the post of Junior Engineer Grade-I under the R.D. Department, Government of Tripura, as it has a different qualifying

period. Hence, Petitioner's prayer was declined. This has aggrieved the petitioner to approach this Court once again.

4. Mr. C.S. Sinha, learned counsel for the petitioner, submits that delay in promotional exercise under the existing rules has led to substantial financial loss and seniority to the petitioner. The application of Rules of 2011, in refusing to consider the representation of the petitioner, is not proper as per the existing Rules of 2008. The qualifying service was of 4(four) years as Junior Engineer Grade-II which the petitioner had duly fulfilled when his case was considered in the year 2010. Consequential notification of promotion in the year 2011 has, therefore, gravely prejudiced the petitioner in terms of seniority, salary and other emoluments. Therefore, respondents need to revisit the impugned Speaking Order.

5. Mr. Karnajit De, learned Additional Government Advocate for the respondents-State and Mr. Raju Datta, learned counsel for the respondent-TPSC, have opposed the prayed.

6. I have considered the submission of learned counsel for the parties and taken note of the relevant pleadings on record. At the outset, it needs to be observed that neither the 2008 Rules nor 2011 Rules do

prescribe a timeline for completing the process for promotion and notifying promotion of eligible persons on fulfillment of requisite criteria such as qualifying service, passing of Departmental Examination, etc. On the other hand, 19(nineteen) candidates were promoted/upgraded to Junior Engineer Grade-I by the same notification dated 16.06.2011. Any favour in respect of one candidate out of 19(nineteen) candidates would also upset the inter se seniority amongst all those 19(nineteen) candidates promoted from a particular date and may lead to administrative chaos.

7. Petitioner had approached this Court earlier after 7(seven) years of the promotion raising the instant grievance. However, learned Writ Court on the previous occasion granted liberty to the petitioner to make a representation without expressing any opinion on the merits of the claim while directing the respondents to consider it. The representation has been declined apparently on the ground that retrospective promotion is not possible by giving relaxation in the Recruitment Rules of 2011. The claim of the petitioner was otherwise stale and passing of a reasoned order on the representation of the petitioner even at the direction of this Court earlier would not revive a stale cause of action and arrest the march of time. Had the Recruitment Rules provided a clear timeline for completion of promotional exercise of eligible persons and mandated that notification

of promotion should be issued by a cut-off date, petitioner could have claimed a legal right for being promoted from a particular date. It is quite understandable that promotional exercise often get delayed due to administrative reasons, but claim for promotion from a retrospective date would be legally tenable only if the statute provides therefor or on the grounds of discrimination *vis-à-vis* other similarly situated persons being in teeth of Article 14 of the Constitution of India.

8. In the facts of the present case, petitioner has not been able to make out any such grounds to direct shifting of the date of promotion from 16.06.2011 to 14.01.2010 more so, when the issue of promotion to the cadre of Junior Engineer Grade-I has come to attain finality after 12 years of the order of promotion.

9. As such, this Court does not find any merit in the writ petition. Hence, the instant writ petition stands dismissed.

Pending application(s), if any, also stands disposed of.

**(APARESH KUMAR SINGH), CJ**

*Pijush*