
(2023) 07 TP CK 0016

In the Tripura High Court

Case No : Writ Petition (C) No. 1084, 682, 1085 Of 2022

Nirmal Debbarma And Others

APPELLANT

Vs

State Of Tripura And Others

RESPONDENT

Date of Decision : 17-07-2023

Acts Referred:

Citation : (2023) 07 TP CK 0016

Hon'ble Judges : Aparesh Kumar Singh, CJ

Bench : Single Bench

Advocate : Koomar Chakraborty, D. Sarma, A. Bhattacharjee

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, CJ

1. Reference is made to the order dated 12.07.2023 which reads as under :

"Petitioners in all the writ petitions have a common prayer to promote them retrospectively to Executive Engineer (Electrical) Grade-III under the Power Department, Government of Tripura with effect from 19.04.2011 i.e. the date on which 7 degree holder Assistant Engineers Grade-IV (of the same category as the petitioners) and 3 diploma holder Assistant Engineers Grade-IV were promoted on the basis of the Departmental Promotion Committee meeting held on 05.04.2011. Petitioners' case is based upon their contention that the post of Executive Engineer (Electrical) Grade-III were increased from 25 to 44 by virtue of the 6th amendment to the Tripura Power Engineering Services Rules, 2011 vide notification dated 22.02.2011. Petitioners' case was arbitrarily left out despite existence of vacancies and despite the fact that they were in the zone of consideration as would appear from the minutes of the meeting dated 05.04.2011 where their names appear at serial Nos.13 to 15 in the category of degree holder. Petitioners, namely, Nirmal Debbarma and Mrityunjoy Das have later been promoted as Executive Engineer Grade-III on ad-hoc basis in the year 2021 but petitioner Salil Jamatia has yet not been promoted.

The respondents and Tripura State Electricity Corporation both have taken a common and clear stand that the plea of the petitioner that the posts of Executive Engineer Grade-III were increased from 25 to 44 from the date of the notification dated 22.02.2011 carrying out the 6th amendment to the Tripura Power Engineering Service Rules, 2011 is misconceived since as per notification issued in the Extraordinary Issue of the Tripura gazette on 31.05.2011, the rules i.e. Tripura Power Engineering Services (6th Amendment) Rules, 2011 come into force on the date by their publication in the official gazette. The gazette notification at Annexure R-2 in WP(C) No.682 of 2022 at sub-rule (i) unambiguously makes it clear that the 6th Amendment to the Tripura Power Engineering Services 1987 Rules would come into effect from the date of publication in the official gazette i.e. 31.05.2011. As such, the conception of the petitioners that they were unfairly left out by the DPC in the promotional exercise held on 05.11.2011 by restricting the numbers of posts to 25 against 44 are not correct. As on the date of the DPC, the numbers of posts as existing from before were 25 only and the increase in post for the grade of Executive Engineer (Electrical) Grade-III rose to 44 only with effect from 31.05.2011. Besides contesting the plea of the petitioners on merits, the respondents have also taken a plea of gross delay and laches on part of the petitioners since they have approached this Court in the year 2022 only. Meanwhile, 2(two) of the writ petitioners have been promoted on ad-hoc basis to the same post as Executive Engineer (Electrical) Grade-III in view of the interim order passed by the Apex Court in SLP(C) No.19765-19767 of 2015.

In those circumstances, learned counsel for the petitioners seeks short time to obtain instructions.

As prayed for by the counsel for the petitioners, matters be listed on 17.07.2023."

Learned counsel for the writ petitioners had taken time to seek instructions on the previous date. On instruction, he seeks permission to withdraw the writ petitions.

Mr. D. Sarma, learned Additional Government Advocate has no objection.

Accordingly, the writ petitions are dismissed as withdrawn.

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