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**(2006) 01 GAU CK 0009**  
**In the Gauhati High Court**  
**Case No : Writ Petition (C) No. 470 of 1999**

Pradip Kumar Dey

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

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**Date of Decision :** 13-01-2006

**Acts Referred:**

**Citation :** (2006) 2 GLT 11

**Hon'ble Judges :** A.B. Pal, J

**Bench :** Single Bench

**Advocate :** C.S. Sinha, for the Appellant; U.B. Saha and S. Chakraborty, for the Respondent

**Final Decision :** Dismissed

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## Judgement

A.B. Pal, J.—The Petitioner was appointed as Inkman in the Tripura Govt. Press, Agartala on purely temporary basis in the pay scale of Rs. 220,380/- on 30.4.1981. By an order dated 8.6.1990, the Petitioner along with Shri Soumen Bhattacharjee, Chargeman (third Respondent herein) and another were deputed for training in the operation and maintenance of the Apple Desk Top Photo Composing System for a period of only 14 days from 14.6.1990 to 27.6.1990 in Calcutta. After the said training both the Petitioner and the third Respondent herein were directed to work in the Desk Top Publishing Section (for short "DTP Section"). While the third Respondent was posted as DTP Operator, the Petitioner was directed to work as Assistant DTP Operator in the said Section and accordingly, they joined the respective posts. The said order was given after obtaining their willingness. It was further provided in that order that both the Petitioner and the third Respondent herein would work in the DTP Section in their existing scale of pay and designation without extra remuneration. In other words, there was no fresh appointment for them in DTP Section and they continued to be Chargeman (Metal Printer-cum-Retouching) and Inkman respectively in the scale of pay attached to those posts during the period they were required to work in the DTP Section. On 11.9.1996 the Petitioner submitted

representation claiming pay at par with the third Respondent, which, however, found no favour from the concerned authorities. By an order dated 25.5.1998, the second Respondent herein (Director of Printing and Stationary Department) had withdrawn the Petitioner from DTP Section and placed him in his original Machine Section of Letter Press Unit. Aggrieved, the Petitioner approached this Court by filing Civil Rule No. 161 of 1998 and failing to get an interim order of stay, he moved the Division Bench of this Court by filing Writ Appeal No. 69 of 1998. By an order dated 3.11.1998 by a Division Bench of this Court in the said writ appeal, the operation of the order dated 25.5.1998 was stayed. Thereafter, on 30.11.1999 the second Respondent herein issued an order converting and redesignating the post of Chargeman (Metal Printer-cum-Retouching) held by the third Respondent as Chargeman (DTP) in the Offset Unit in the same scale of pay. In other words, the post of Chargeman (Metal Printer-cum-Retouching) stood abolished and in its place a new post Chargeman (DTP) was created showing the third Respondent as the incumbent to the new post. On the same day, i.e. on 30.11.1999 the said Respondent issued another memorandum showing the staff strength of the Offset Unit after merger of the Block Unit and the list containing the name of the posts and incumbents included the post of Chargeman (DTP) and the third Respondent as holder of that post. Neither the post held by the Petitioner nor his name figured in the said list. By this writ petition, the Petitioner has impugned both the above order and the memorandum dated 30.11.1999 regarding conversion and re-designation of the post of Chargeman and publication of the staff strength of Offset Unit excluding the Petitioner and his post. The ground taken for such challenge is that though the Petitioner and the third Respondent had same training and were doing same nature of job, the State Respondents have discriminated against him by a different treatment.

2. The State of Tripura and the Director, Printing and Stationary Department being the main Respondents herein countered the contention advanced in the writ petition narrating the other side of the story. Their contention, inter alia is that the Petitioner and the third Respondent were asked to work in the DTP Section if they were willing without any extra remuneration and after they exercised their option, they were permitted to work in that Section. One post of Chargeman in the DTP was created after surrendering the post of Chargeman (Metal Printing-cum-Retouching) with same scale of pay and the third Respondent, who was already holding the said post was allowed to continue in the new post, as he was a Diploma holder in Printing Technology. As a matter of fact, when new Offset machine was installed, it became necessary to switch over from Letter Press system to Offset system and for that purpose, the post of Chargeman (DTP) was created. The Petitioner was an Inkman, which is a lower post than the Chargeman and as there was a good number of senior employees in the Grade of Inkman, it was not legally permissible to consider his case for appointment to any post in the DTP Section with the scale of pay as was enjoyed by the third Respondent.

3. I have heard Mr. C.S. Sinha, learned Counsel for the Petitioner and Mr. S. Chakraborty, learned Counsel for the State Respondents.

4. Mr. Sinha, learned Counsel for the Petitioner strenuously argued that after the Petitioner was imparted training like the third Respondent and allowed to work in the DTP Section for a considerable period, it is unfair and unjust on the part of the State Respondents to show him the door unceremoniously only because he assailed the order of his withdrawal in a civil Rule, which is still pending before this Court and this action on their part has violated the equality clause as the third Respondent, who obtained same training like the Petitioner has been allowed to continue in the DTP Section as Chargeman after re-designation of the post held by him. According to Mr. Sinha, the impugned order re-designating the post of Chargeman (Metal Printing-cum-Retouching) to Chargeman (DTP) is with a view to permanently allow the third Respondent to work in that Section. Though similar exercise could be undertaken by the State Respondents to absorb the Petitioner in the said Section, it has not been done due to annoyance created by him by filing a writ petition against his order of reversion as noted above. The other order impugned herein is the memorandum showing the staff strength of the DTP Section, which is an indirect way of frustrating the relief he has strength in the earlier writ petition against his reversion.

5. Mr. Chakraborty, learned Counsel for the State Respondents, on the other hand, raised a question regarding maintainability of the petition itself on the ground that both the orders impugned herein ex facie do not make out a case calling interference by this Court. The order dated 30.11.1999 abolishing the post of Chargeman (Metal Printer-cum-Retouching) and creating the post of Chargeman (DTP) is an independent act on the part of the State Respondents in administrative exigency and it has nothing to do with the service prospect or right, if any, of the Petitioner. Admittedly, the post of Chargeman held by the third Respondent was carrying higher pay scale than that held by the Petitioner and that after the training, as aforesaid, while the third Respondent was working as Operator, the Petitioner was working as Assistant Operator only in the DTP Section. This being the position, it cannot be said that they were similarly situated at any point of time. The other memorandum, impugned herein, is only reflection of the staff strength of the DTP Section and such memorandum by itself cannot be any ground for filing the instant writ petition.

6. The pleadings and rival submissions set out thus, the question that has fallen for consideration is whether the Petitioner and the third Respondent were similarly situated at the time when the post of Chargeman (Metal Printer-cum-Retouching) was abolished and Chargeman (DTP) was created in the Offset Unit in the same scale of pay and with little effort the answer shall be in the negative. The posts held by them and the scales attached were always different and, therefore, abolition and re-designation exercise cannot be said to have in any way affected any fundamental or legal right of the Petitioner. Same is the case with the memorandum whereby staff strength of the Offset Unit has been

reflected, which does not show the Petitioner and the post held by him. This is purely Executive function depending on the necessity of the department and in such matters, the writ court has no jurisdiction to step in.

7. For the reasons and discussions made above, this writ petition appears to be devoid of any merit and consequently, the same is dismissed leaving the parties to bear their own cost.