

(2000) 06 GAU CK 0003

Gauhati High Court (Agartala Bench)

Case No: Writ Petition (C) No. 144 of 1999

Jogesh Ch. Paul

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision: June 13, 2000

Acts Referred:

- Constitution of India, 1950 - Article 14, 16
- Tripura Agriculture Service (Second Amendment) Rules, 1997 - Rule 5A

Citation: (2000) 3 GLT 318

Hon'ble Judges: M.L. Singhal, J

Bench: Single Bench

Advocate: S. Talapatra and P. Das, for the Appellant; P. Deb Roy, for the Respondent

Final Decision: Allowed

Judgement

M.L. Singhal, J.

Heard Mr. S. Talapatra, learned Counsel for the Petitioner and Mr. P. Deb Roy, learned Counsel for the Respondents No. 1 and 2.

2. The Petitioner is working Grade-III of Tripura Agriculture Service since 10.8.1987 (Annexure-A). Vide impugned order dated 4.3.1999 (Annexure-10), the Respondents No. 3 to 6 and other officials working in Grade-III of the Tripura Agriculture Field Service have been promoted in Grade-II in the post of Agri Inspector. The Petitioner has been denied promotion on the ground that he does not possess the educational qualification viz. Matriculation. The Tripura Agriculture Service (Second Amendment) Rules, 1997 in force from 4.8.1997 will govern the present promotion as the promotions have been made on 4.3.1999. New Rule 5A of the said Rules which provides for promotion runs as follows:

3A. Method of recruitment to the post of Grade-I of TAFS:

i) by filling up 75% of the posts by direct recruitment having minimum degree of B.Sc. (Agri)/(Hor ti) on recommendation of the Commission.

ii) by filling up of 25% of the posts by promotion of members of Grade-II of TAFS having not less than seven years regular service in that grade.

iii) Appointment to the Grade-II of TAFS: Appointment to the posts in Grade-II of the service shall be made by promotion of members of Grade-III having seven years experience in that Grade on the basis of seniority.

iv) Appointment to the Grade-III of TAFS: Appointment to the posts in Grade-III of the service shall be made in the manner laid down in Fifth Schedule.

3. A perusal of the aforesaid Rules clearly shows that a person having seven years experience in Grade-III is entitled to promotion in Grade-II of Tripura Agriculture Field Service. The said Rule does not contemplate any educational qualification for promotion.

4. Mr Deb Roy, the learned Counsel for the Respondents argued that under the 1978 Rules the essential condition for promotion from Grade-III to Grade-II of the Tripura Agriculture Field Service is that the candidate must have passed Metric or equivalent examination. On this ground, the learned Counsel urged that vide this Court's earlier decision rendered in Civil Rule No. 75/1991 Shri. Jogesh Ch. Paul v. State of Tripura and Ors., the Petitioner has been denied promotion.

5. Upon hearing the learned Counsel for the parties, it may be observed that the present Rule of 1997 as indicated above, will govern the present promotion and not the 1978 Rules. The decision of this Court earlier in Civil Rule No. 75/91 was under the old Rules of 1978. Since under the Rules of 1997 the Petitioner is entitled to promotion after the amendment of Rules, the decision of this Court earlier does not come in the way of the promotion of the Petitioner.

6. The officials junior to the Petitioner have been promoted in the department which is violative of Articles 14 and 16 of the Constitution.

7. In the result, the petition succeeds and is hereby allowed. The Respondents No. 1 and 2 are directed to consider the case of the Petitioner for promotion in the Grade-II of Tripura Agriculture Field Service within a period of two months from today w.e.f. 10.3.1999 on which date the juniors to the Petitioner have been promoted. Costs on parties.