

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 826/2024

Smt. Bela Datta

-----Petitioner(s)

Versus

The State of Tripura and 2 others

-----Respondent(s)

For the Petitioner(s) : Ms. R. Purkayastha, Advocate

For Respondent(s) : Mr. Kohinoor N. Bhattacharjee, GA

HON'BLE MR. JUSTICE ARINDAM LODH
Order

07/01/2025

Heard Ms. R. Purkayastha, learned counsel appearing for the petitioner.

Also heard Mr. Kohinoor N. Bhattacharjee, learned GA appearing for the respondents-State.

By means of filing the instant writ petition, the petitioner has prayed for the following reliefs:

- “i) Issue Rule calling upon the respondents and each one of them, to show cause as to why Writ of Mandamus and/or in the nature, shall not be issued, for mandating/directing the respondents, for promoting the petitioner to the post of Deputy Superintendent under Home Jail Department with retrospective effect i.e. w.e.f. 04.10.2023 and thereafter provide her all consequential service benefits accordingly;*
- ii) Call for the records appertaining to this petition;*
- iii) Costs of and incidental to this proceeding;*
- iv) Any other relief(s) as to this Hon'le High Court may deem fit and proper.”*

It is the case of the petitioner that, at present she has been discharging her duties and responsibilities as a Female Jailor in Sonamura Sub-Jail, Sepahijala District. For the last 12 years, she has not been considered for promotion to the next higher post i.e. to the post of Deputy Superintendent, under Home Jail Department, Government of Tripura. It is the further case of the petitioner that there are vacant posts lying with the respondents. Despite vacancies, the respondents are apathetic to fill-up the vacant posts without assigning any reason. As such, the petitioner has submitted her representation on 06.11.2023 to the authority concern for providing her promotion to the next

higher post, but said representation has not been responded to by the competent authority. Hence, this present writ petition has been filed by the petitioner.

Ms. Purkayastha, learned counsel for the petitioner has submitted that considering the length of service, the petitioner has now become eligible to be promoted to the post of Deputy Superintendent under Home Jail Department, Government of Tripura, but she has been deprived of her legal entitlement.

Mr. Bhattacharjee, learned GA has submitted that promotion is not a matter of right. It is a right to be considered by the employer.

I have considered submission of learned counsel appearing for the parties. Both the learned counsel for the parties have agreed to dispose of the case at this stage.

True it is that, promotion is not a matter of right, but it is a right to be considered. There is no quarrel about this proposition of law. It is also equally true that Court has limited jurisdiction to pass direction upon the employer to fill-up the vacancies. It is the prerogative of the employer whether the vacant posts would be filled-up or not.

Having kept in mind the aforesaid proposition of law, in my opinion, if vacancy exists in any department under the Government or any other authority, and the same is not filled-up, then, it is the obligation of the employer to assign sufficient reason for not filling up the same. The petitioner is otherwise eligible to be considered for promotion to the post of Deputy Superintendent under Home Jail Department, Government of Tripura, as she has been serving as Female Jailor for the last 12 years. She submitted representation, but, her representation has not been considered by the respondents till date.

In view of this, I direct the respondents to apply their judicious mind as regards consideration of promotion of the petitioner to the post of Deputy Superintendent under Home Jail Department, Government of Tripura, in

accordance with rules. It is made clear that the entire process shall be completed within 8(eight) weeks from the date of receipt of the copy of this order.

Whatever decision is taken by the respondents-authority, it may be communicated to the petitioner. The petitioner is given liberty to approach the court, if aggrieved by any order passed by the respondents.

With the aforesaid observations and directions, the instant writ petition stands disposed.

JUDGE

SAIKAT KAR

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