

IN THE HIGH COURT OF TRIPURA
A G A R T A L A

W.P.(C) No.105 of 2024

1. Sri Ratneswar Debnath,

S/O- Sri Kiran Debnath, R/O- Village- Matripally,
P.O- Siddhi Ashram, P.S- Amtali, District- West
Tripura, Pin-799003, Age-47 Years.

2. Sri Dipak Sarkar,

S/O- Lt. Bhuban Ch. Sarkar, R/O- Village-
Sreepally, Near Ramthakur College (Badharghat),
P.O- Siddhi Ashram, P.S- Amtali, District- West
Tripura, Pin-799003, Age-48 Years.

3. Sri Sujit Sinha,

S/O- Sri Anil Sinha, R/O- Vill+P.O- Jarailtali,
P.S- Kailashahar, District- Unakoti Tripura, Pin-
799279, Age 45 Years.

4. Sri Vinod Kumar,

S/O- Lt. Rattan Singh, R/O- Village Khanpur,
Kalan, P.O- Khanpur, Kalan, P.S- Gohana,
District- Sonipat, Pin-131305, Age-42 Years.

5. Sri Ramkrishna Karmakar,

S/O- Lt. Benu Lal Karmakar, R/O- Village-
Bagber, P.O- Ghilatali, P.S- Kalayanpur, Sub
Division- Teliamura, District- Khowai Tripura,
Pin- 799203, Age-43 Years.

6. Sri Bishnu Das,

S/O Sri Kishor Das, R/O- Village+P.O-
Rangamati, P.S- Birganj, District- Gomati
Tripura, Pin-7990101, Age- 45 Years.

7. Sri Sanjit Mahajan,

S/O- Himangshu Mahajan, R/O- Village+P.O-
West Charakbai, P.S- Baikhora, Sub-Divison-
Shantirbazar, District- South Tripura, Pin-
799142, Age-42 Years.

8. Sri Rajat Kumar Dubey,

S/O- Jagatanand Dubey, R/O- Village- Raha
Tawa, P.O- Beloam, P.S- Darauli, District-
Siwan, Bihar, Pin-841234, Age-44 Years.

9. Sri Prabir Das,

S/O- Lt. Nikunja Das, R/O- Village- Melagarh
Jagganath Bari, P.O. Chandigarh, P.S- Melagarh,

District- Sepahijala Tripura, Pin 799115, Age- 45 Years.

10. Havildar (R/T) Kamal,
S/O- Lt. Om Prakash, R/O- 3rd Battalion, Tripura State Rifles, Pts, Wazirabad, Delhi, Pin-110094, Age- 42 Years

..... Petitioner (s)

– V e r s u s –

- 1. The State of Tripura,**
represented by its Principal Secretary, Home Department, Govt. of Tripura, New Secretariat Building, P.O - Secretariat, P.S New Capital Complex, District-West Tripura, Pin-799010.
- 2. The Principal Secretary,**
Home Department Govt. of Tripura, New Secretariat Building, P.O - Secretariat, P.S New Capital Complex, District- West Tripura, Pin-799010.
- 3. The Principal Secretary,**
General Administration (Personnel and Training) Department, Govt. of Tripura, New Secretariat Building, P.O - Secretariat, P.S New Capital Complex, District- West Tripura, Pin-799010.
- 4. The Director General Of Police,**
The Govt. of Tripura, Police Headquarters, Akhaoura Road, P.O- Agartala, P.S- West Agartala, Dist-West Tripura, Pin-799001.
- 5. The Inspector General of Police (TSR & OPS),**
Tripura, Govt. Of Tripura, through the Office of the Director General of Police, Govt. of Tripura, Police Headquarters, Akhaoura Road P.O- Agartala, P.S- West Agartala, Dist-West Tripura, Pin-799001.
- 6. The Asst. Inspector General of Police (TSR),**
Govt. of Tripura, through the Office of the Director General of Police, Govt. of Tripura, Police Headquarters, Akhaoura Road, P.O- Agartala, P.S- West Agartala, Dist-West Tripura, Pin-799001.

7. Sri Shib Prasad Raghuwanshi,
Presently Serving as Naib Subedar (Supervisor Grade II Technical) under Tripura State Rifles, notice to be served through respondent No. 4.

8. Sri Kanailal Bhowmik,
Presently Serving As Naib Subedar (Supervisor Grade II Technical) under Tripura State Rifles, notice to be Served Through respondent No. 4.

9. Sri Tapan Das,
Presently serving as Naib Subedar (Supervisor Grade II Technical) under Tripura State Rifles, notice to be served through Respondent No. 4.

10. Sri Debabrata Debbarma,
Presently serving as Naib Subedar (Supervisor Grade II Technical) under Tripura State Rifles, notice to be served through respondent No. 4.

11. Sri Jayanta Debbarma,
Presently serving as Naib Subedar (Supervisor Grade II Technical) under Tripura State Rifles, notice to be served through respondent No. 4

.....Respondent (s)

For the Petitioner (s)	:	Mr. A. Bhowmik, Adv.				
For the Respondent (s)	:	Mr. D. Sarma, Addl. GA Mr. R. G. Chakraborty, Adv.				
Date of hearing and delivery of Judgment & order	:	09.09.2024				
Whether fit for reporting	:	<table border="1"> <thead> <tr> <th>YES</th> <th>NO</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> </tbody> </table>	YES	NO		
YES	NO					

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

JUDGMENT & ORDER (ORAL)

The constitutional validity of Rule 47(1) of Tripura State Rifles (Recruitment) Rules, 1984 (for short- Rules of 1984) as amended vide 13th Amendment of 2014, is under challenge in this writ petition.

[2] The said Rule 47 deals with promotional avenue from the post of Havildar (Radio Technicians) and Havildar (Engine Fitters) to the post of Naib Subedar

(Supervisor Grade-II Technical). All the petitioners were appointed as Rifleman or as Havildar (GD) on different occasions during different periods and ultimately, all of them were appointed on promotion to the post of Havildar (Radio Technicians) vide order dated 01.08.2009. All of them are now awaiting for their next promotion to the post of Naib Subedar (Supervisor Grade-II Technical).

[3] The relevant Rule of 47 of Rule 1984 as applicable to them for such promotion, was earlier in the following manner:

Recruitment Rules for the post of Naib Subedar (Supervisor Grade-II Technical):

(1) These posts shall be filled by promotion, on selection basis from **amongst Havildars (Radio Technicians)** who-

- (a) have put in at least 5 years service as Radio Technician: and
- (b) have passed Grade II Radio Technician proficiency standard.

(2) The Departmental Promotion Committee for the promotions mentioned in sub-rule (1) shall be as specified in sub-rule (2) of Rule 44.

(3) In case filing of these posts by the method specified in sub-rule (1) is not possible, these posts may be filled by re-employment of ex-services or ex-Central Police Organisation personnel or by deputation or transfer of personnel of State or Central Police Organisation.

(4) To be eligible for re-employment, an ex-services or ex-Central Police Organisation personnel should-

- (a) have retired or discharged, not earlier than 24 months of such re-employment, in corresponding rank from signal set-up of formation concerned:
- (b) have possessed exemplary or very good character in his previous services
- (c) have passed grade II Radio technicians proficiency standard before discharge or retirement:
- (d) not have attained the age of 47 years as on 1st day of July of the year in which appointment is made: and
- (e) have been approved for such re-employment by the Inspector General, who may relax any of the conditions specified in this sub-rule, in suitable cases, by order in writing.

(5) To be eligible for deputation or transfer, a personnel of a State or Central Police Organisation should-

- (a) hold corresponding rank or be qualified for promotion to such rank in this parent organisation:
- (b) have passed Grade II Radio Technicians proficiency standard; and
- (c) have been approved for such transfer or deputation by the Inspector General.

[4] The Government thereafter made an amendment of the said Rule 47 by 13th Amendment as notified on 12.06.2014 in the following form:

47. Recruitment Rules for the post of Naib Subedar (Supervisor Grade-II Technical):

(1) These posts shall be filled by promotion **from amongst Havildar (Radio Technicians) and from amongst Havildar (Engine Fitters)** on seniority basis provided that 60(sixty) percent sanctioned posts shall be filled from amongst Havildar (Radio Technicians) and 40 percent sanctioned posts shall be filled form amongst Havildar (Engine Fitters) who-

(a) Have put in at least 5 years service as Radio Technician/Engine Fitter and;

(b) Have passed Grade-II Radio Technician proficiency standard in case of Havildar (Radio Technician) and have Grade-III and Grade-II Radio Technician proficiency standard in case of Havildar (Engine Fitter).

[5] It is the grievance of the petitioners that by the said amendment their promotional scope has been narrowed down by incorporating the post of the Havildar (Engine Fitters) as one of the feeder posts for the promotion to the post of Naib Subedar (Supervisor Grade-II Technical).

[6] Mr. A. Bhowmik, learned counsel appearing for the petitioners submits that by virtue of such amendment, now 60% posts of Naib Subedar will be filled up from Havildar (Radio Technicians) and 40% posts will be filled up from Havildar (Engine Fitters) though Naib Subedar (Supervisor Grade-II Technical) is completely a technical post dealing with signal and communication duties like the duties of Havildar (Radio Technicians) with higher responsibility, whereas Havildar (Engine Fitters) is a mechanical post where such employees are required to discharge their duties of diesel and petrol engine repairing etc. which is totally unrelated with the work of such Naib Subedar (Supervisor Grade-II Technical). Mr. Bhowmik, learned counsel also contends that the employees holding the post of Havildar (Engine Fitters) lack in basic qualification and experience for discharging duties as Naib Subedar (Supervisor Grade-II Technical). Mr. Bhowmik, learned counsel further submits that for appointment to the post of Havildar (Radio Technicians), one is required to complete a 18 months course on Radio Mechanism from ITI, whereas for appointment to the post of Havildar (Engine Fitters) one is required to possess a trade certificate of Engine Fitters, Auto Fitter or Electrician from ITI, which is quite different stream and totally non-suitable for the related work of Naib Subedar (Supervisor Grade-II Technical). According to Mr.

Bhowmik, learned counsel, except the post of Naib Subedar (Supervisor Grade-II Technical), there is no other promotional avenue for Havildar (Radio Technicians) which has also now been compressed by incorporating Havildar (Engine Fitters) in the feeder post. Therefore, considering all these aspects, according to Mr. Bhowmik, learned counsel, such amendment was arbitrary and violative of Article 14 of the Constitution.

[7] Another point, as raised by Mr. Bhowmik, learned counsel, is that the total sanctioned posts of Naib Subedar (Supervisor Grade-II Technical) are 14 and out of said 14 posts, 60% comes to be 9, which was supposed to be filled up from the feeder post of Havildar (Radio Technicians) as per said Amendment of 2014, but by the promotional order dated 20.06.2023, 5 posts of such Naib Subedar meant to be filled up from Havildar (Engine Fitters) have already been filled up whereas out of 9 posts which are required to be filled up from the feeder post of Havildar (Radio Technicians), only 3 posts were filled up and the rest are still lying vacant. Mr. Bhowmik, learned counsel further submits that the vacancies in the posts of Naib Subedar arose prior to the Amendment of Rules of 2014 and therefore, the same ought to have been filled up by unamended Rules of 1984 but the same has not been done yet. According to the learned counsel, the posts that fell vacant prior to the said Amendment of 2014 are required to be filled up following the old rules as would have existed prior to such amendment.

[8] Lastly, Mr. Bhowmik, learned counsel relies on a decision of the Apex Court in **S.B. Mathur and others vs. Chief Justice of Delhi High Court and others, 1989 Supp (1) SCC 34** which was concerning a dispute between different groups of employees of Delhi High Court claiming better rights of promotion for themselves. Some employees of Superintendent Grade of said High Court filed the writ petition objected to their being treated on a par with the Private Secretaries to the Learned Judges and Court Masters and being included in a joint seniority list along with them, as

far as the promotion to the next higher post of Assistant Registrar was concerned. The relevant Para no.11 of the judgment as referred is extracted below:

11. The first submission of Mr. Thakur, learned Counsel for the petitioners is that there is a violation of Article 14 of the Constitution in treating the posts of Superintendents, Court Masters or Readers and Private Secretaries to the Judges as equal status posts. It was urged by him that the sources of recruitment to these posts were not identical and so also the qualifications required for appointments to these posts. He also pointed out that the duties of the incumbents of these posts were different. It was submitted by him that in treating these posts as equal status posts unequals were treated equally and hence the rule of equality was violated. **In appreciating this submission, it must be borne in mind that it is an accepted principle that where there is an employer who has a large number of employees in his service performing diverse duties, he must enjoy a certain measure of discretion in treating different categories of his employees as holding equal status posts or equated posts, as questions of promotion or transfer of employees inter se will necessarily arise for the purpose of maintaining the efficiency of the organisation. There is, therefore, nothing inherently wrong in an employer treating certain posts as equated posts or equal status posts provided that, in doing so, he exercises his discretion reasonably and does not violate the principles of equality enshrined in Articles 14 and 16 of the Constitution. It is also clear that for treating certain posts as equated posts or equal status posts, it is not necessary that the holders of these posts must perform completely the same functions or that the sources of recruitment to the posts must be the same nor is it essential that qualifications for appointments to the posts must be identical.** All that is reasonable required is that there must not be such difference in the pay-scales or qualifications of the incumbents of the posts concerned or in their duties or responsibilities or regarding any other relevant factor that it would be unjust to treat the posts alike or, in other words, that posts having substantially higher pay-scales or status in service or carrying substantially higher responsibilities and duties or otherwise distinctly superior are not equated with posts carrying much lower pay--scales or substantially lower responsibilities and duties or enjoying much lower status in service.

[9] Mr. Bhowmik, learned counsel also relies on a decision of the Gauhati High Court in **Ch. Lalnunchama, SDO vs. State of Mizoram and Ors., (2007) 4 GLR 478**. This decision stands on a different factual background that the petitioner therein was an electrical engineer and was an aspirant for the post of executive engineer, PWD, Electrical Division but respondent no.4 who was a mechanical engineer was promoted to said post. The petitioner sought for a declaration that rule 4(2)(b), rule 5(3) and column 8 of Sl. No.5 of Schedule B of Mizoram Engineering Services Rules, 2001 to be ultra-vires to mean that an incumbent in one discipline/branch/subwing in Engineering Grade-V shall have no right for appointment or promotion in any other discipline.

The Single Bench of Gauhati High Court in that backdrop while dealing with said Rules observed the following at paragraph no.34:

34. In view of the above discussions, I am of the view that if we interpret rule 5(3) of the 2001 Rules to mean that **intra-wing transfer** of Mechanical Engineer to posts earmarked for Electrical Engineer is permissible, the same would clearly amount to a situation where unequals would be treated as equal. This would be clearly violative of the fundamental provisions of our Constitution in as much as engineers belonging to two separate classes, on the basis of the engineering degrees obtained in different engineering disciplines, would be treated as people belonging to the same class. Such unnatural classification is obviously prohibited by our Constitution.

[10] Mr. D. Sarma, learned Addl. GA appearing for the State-respondents seriously refuted the contention of Mr. Bhowmik, learned counsel submitting that prior to the posting of present petitioners to the posts of Havildar (Radio Technicians), they were actually discharging duties in general duty field and they were also lacking in basic technical qualification, but later on they were put to undergo training of Grade-III Radio Technician proficiency standard and after successful completion of their training, they were transferred to the post of Havalidar (Radio Technicians). Mr. Sarma, learned Addl. GA also submits that when the vacancy arose prior to Amendment of the Rules in 2014, the present petitioners were not at all eligible for such promotion at that time. It is further submitted by Mr. Sarma referring to the reply submitted by the department-respondents that at present 3 posts (ST-2 and UR-1) of Naib Subedar (Supervisor Grade-II Technical) are lying vacant, which will be filled up from Havildar (Radio Technicians) in future and 5(five) posts meant to be filled up from Havildar (Engine Fitters) are already filled up. He also submits that the promotional exercises were done strictly in accordance with the existing rules and nowhere the law prohibits the employer in exercising its discretion in treating different categories of employees in the feeder post for such promotional exercise.

[11] Mr. Sarma, learned Addl. GA to support his contention relies on a decision of the Apex Court in case of **Union of India vs. Pushpa Rani and others**,

(2008) 9 SCC 242 wherein from paragraph Nos. 23 to 26, the concept of 'cadre' was discussed. The relevant paragraph no.24 as relied on by Mr. Sharma is excerpted below:

24. In **A.K. Subraman and Others vs. Union of India and Others**, [(1975) 1 SCC 319], a three Judges Bench of this Court while interpreting the provisions contained in Central Engineering Service, Class I, Recruitment Rules, 1954, observed as under : (SCC p.328, para 20)

"20.....The word "grade" has various shades of meaning in the service jurisprudence. It is sometimes used to denote a pay scale and sometimes a cadre. Here it is obviously used in the sense of cadre. A cadre may consist only of permanent posts or sometimes, as is quite common these days, also of temporary posts."

[12] While considering the submissions of both the sides, we are of the view that it is always within the competency of the employer to change the service rules or to alter and to amend the same regarding avenues of promotion necessitated by administrative exigencies and there is no right conferred upon any employee to claim that rules governing condition of the service should be kept unaltered forever. Reference in this regard may also be made to a decision of the Apex Court in case of **P.U Joshi and others vs. Accountant General, Ahmedabad & Ors**, (2003) 2 SCC 632 and the relevant Para-10 of the said decision is gainfully extracted hereunder:

"10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

So, it is well within the competency of the State to amend the Rules by way of incorporating Havildar (Engine Fitters) in the feeder post. Moreover, maximum numbers of posts of Naib Subedar (Supervisor Grade-II Technical) have been kept for filling up from the post of Havildar (Radio Technicians).

[13] So far the plea as raised by the petitioners that the vacancy arose prior to Amendment of 2014 in the said Rules of 1984 should be filled up following the old rules is concerned, law in this regard has been already settled by a recent decision of the Apex Court in case of **State of Himachal Pradesh and others vs. Raj Kumar, (2023) 3 SCC 773** and the relevant paragraphs of the said decision are as under:

“82. A review of the fifteen cases that have distinguished *Rangaiah* would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in *Rangaiah*. The findings in these judgments, that have a direct bearing on the proposition formulated by *Rangaiah* are as under:

82.1. There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, *Rangaiah* case must be understood in the context of the rules involved therein.

82.2. It is now a settled proposition of law that a candidate has a right to be considered in the light of the existed rules, which implies the "rule in force" as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidates.

82.3. The Government is entitled to take a conscious policy decision not to fill up the vacancies arising prior to the amendment of the rules. The employee does not acquire *any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government*. There is no obligation for the Government to make appointments as per the old Rules in the event of restructuring of the cadre is intended for efficient working of the unit. The only requirement is that the policy decisions of the Government must be fair and reasonable and must be justified on the touchstone of Article 14.

82.4. The principle in *Rangaiah* need not be applied merely because posts were created, as it is not obligatory for the appointing authority to fill up the posts immediately.

82.5. When there is no statutory duty cast upon the State to consider appointments to vacancies that existed prior to the amendment, the State cannot be directed to consider the cases.

83. The above-referred observations made in the fifteen decisions that have distinguished *Rangaiah* case demonstrate that the wide principle enunciated therein is substantially watered-down. Almost all the decisions that distinguished *Rangaiah* hold that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of law that existed on the date when they arose. This only implies that decision in *Rangaiah* is confined to the facts of that case.

84. The decision in *Deepak Agarwal* is a complete departure from the principle in *Rangaiah* inasmuch as the Court has held that a candidate has a right to be considered in the light of the *existing rule*. That is the *rule in force* on the date the consideration takes place. This enunciation is followed in many subsequent decisions including that of *Union of India v. Krishna Kumar*. In fact, in *Krishna Kumar* Court held that there is only a "right to be considered for promotion *in accordance with rules which prevail on the date on which consideration for promotion take place.*"

85. The consistent findings in these fifteen decisions that *Rangaiah case* must be seen in the context of its own facts, coupled with the declarations therein that there is no rule of universal application to the effect that vacancies must necessarily be filled on the basis of rules which existed on the date on which they arose, compels us to conclude that the decision in *Rangaiah* is impliedly overruled. However, as there is no declaration of law to this effect, it continues to be cited as a precedent and this Court has been distinguishing it on some ground or the other, as we have indicated hereinabove. For clarity and certainty, it is, therefore, necessary for us to hold;

85.1. The statement in *Y.V. Rangaiah v. J. Sreenivasa Rao* that, "*the vacancies which occurred prior to the amended Rules would be governed by the old Rules and not by the amended Rules*", does not reflect the correct proposition of law governing services under the Union and the States under Part XIV of the Constitution. It is hereby overruled.

85.2. The rights and obligations of persons serving the Union and the States are to be sourced from the rules governing the services."

[14] Even a 3(three) Judges Bench of the Apex Court very recently in **Ravikumar Dhansukhlal Maheta and another vs. High Court of Gujarat and others, 2024 SCC Online SC 972** at Para 81 also observed that the courts cannot sit in review to decide whether the policy adopted for promotion is suited to select the 'best candidates' unless on the limited ground where it violates the principle of equal opportunity under Article 16 of the Constitution.

[15] In view of the above said settled position of law, the challenges as made by the petitioners regarding the validity of Rule 47(1) of Tripura State Rifles (Recruitment) Rules, 1984 as amended vide it's 13th amendment of the year 2014 and that the vacancy which arose prior to Amendment of 2014 should be filled up following the old rules as were existent at that time, are not convincing and acceptable. As a matter of right, the petitioners cannot sustain such claims. No irrationality or arbitrariness is found in the amendment of Rule 47 as amended by said 13th amendment nor are the impugned provisions discriminatory so as to be hit by Article 14 of the Constitution of India for

being declared ultra vires. Maximum numbers of post of Naib Subedar (Supervisor Grade II Technical) i.e. 60% has been kept to be filled up from the feeder post of Havildar (Radio Technicians) and moreover, the eligibility for such promotion from the branch of Havildar (Engine Fitters), as per the amended rules, will arise only when any person from said branch will qualify Grade III and Grade II Radio Technicians proficiency standard. Therefore, the contention of the petitioners that Havildar (Engine Fitters) being a mechanical post having no prior experience of works related to radio repairing or maintenance of signal or communication etc., they are not suitable for the promotional post of Naib Subedar (Supervisor Grade II Technical), is also not convincing.

[16] In the result, the writ petition is dismissed being devoid of any merit. However, as already the state-respondents have stated that the vacant posts of Naib Subedar (Supervisor Grade-II Technical) will now be filled up from Havildar (Radio Technicians), the State-respondents i.e. the respondent Nos.1 to 6 are directed to expedite the process of such promotional exercise at the earliest as per the promotional policy of the State and above said Rules, subject to any direction passed by the Apex Court in SLP(C) No.19765-19767 of 2015 or in any other case in respect of such promotional exercise.

Interim application(s), if any, stands disposed of.

(S.D. PURKAYASTHA, J)

(APARESH KUMAR SINGH, CJ)