

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 46 OF 2024

Subrata Dey, son of Swapan Kumar Dey,
Resident of Melaghar, behind Ram Thakur Ashram,
Tripura, Pin 799115. (Age-44 years)

.....**Petitioner.**

Vrs.

- 1. The State of Tripura**, (to be represented by) the Secretary,
Department of Labour, Government of Tripura, New Secretariat Building,
New Capital Complex, Kunjaban, P. S. New Capital Complex, Agartala,
West Tripura, Pin 799010.
- 2. The Secretary**, Department of Labour, Government of Tripura,
New Secretariat Building, New Capital Complex, Kunjaban, P. S. New
Capital Complex, Agartala, West Tripura, Pin 799010.
- 3. The Director of Employment Services & Manpower Planning**, Tripura,
Directorate of Employment Services & Manpower Planning, Agartala,
West Tripura, Pin 799001.
- 4. The Chairman**, Joint Recruitment Board, Tripura, Shram Bhavan,
Office Lane, Agartala, West Tripura, Pin 799001.
- 5. The Member Secretary**, Joint Recruitment Board, Tripura, Shram
Bhavan, Office Lane, Agartala, West Tripura, Pin 799001.
- 6. The Controller**, Joint Recruitment Board, Tripura, Shram Bhavan,
Office Lane, Agartala, West Tripura, Pin 799001

..... **Respondents.**

For the petitioner (s) : Ms. S. Deb (Gupta), Advocate.

For the respondent (s) : Mr. S.M.Chakraborty, Advocate General
Mr. D. Sarma, Addl. G.A.

Dates of hearing and
dates of delivery of
judgment and order : **25.02.2025 & 27.02.2025**

Whether fit for
reporting : **Yes**

HON'BLE MR.JUSTICE ARINDAM LODH

Judgment & Order(Oral)

25.02.2025

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

“(i) Issue Rule, calling upon the Respondents to show cause as to why in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to recommend the name of the Petitioner against the post of Junior Operator (Pump)/Junior Multi-Tasking Operator (Uncommon), in c/w Advt. No.01/2020 and Notification, dated 12.02.2021, for the posts of Group-C, [Lower Division Clerk (LDC), Agriculture Assistant (Except TAFS Grade-III), Agriculture Assistant (TAFS Grade-III), Junior Operator (Pump) & Junior Multi-Tasking Operator (Uncommon)].

(ii) Issue Rule, upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to re-publish the Merit List, dated 13.09.2023, after including the name of the petitioner therein.

(iii) Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby quashing & cancelling the Letter, dated 12.01.2024, issued by the Chairman, JRBT.

(iv) Make the Rules absolute.

(v) Pass any further order/orders as this Hon’ble High Court considered fit and proper.”

2. The short facts are that the respondents floated an advertisement on 01.06.2017 [**Annexure-13** to the writ petition] for filling up various posts. One of the posts was Junior Fitter, under Post Code 6. But, the said advertisement was cancelled. Thereafter, the respondents issued advertisement no. 01/2020 again on 27.11.2020 [**Annexure-1** to the writ petition] for filling up the posts of Lower Division Clerk (Group-C), Non-Gazetted. Total 1500 posts were shown to the said advertisement. The State-respondents had issued another notification dated 12th February, 2021 [**Annexure-2** to the writ petition] as a matter of **“Revision”** of advertisement no. 01/2020, dated 27.11.2020, including corrigendum and addendum related to the recruitment of 1500 Lower Division Clerk (Group-C) posts by Joint Recruitment Board (JRBT), Tripura. In the said notification dated 12.02.2021 some posts were clubbed together and referred to as ‘Junior Multi Tasking Operater’. For convenience, it may be reproduced in a chart from the said notification.

VACANCY DETAILS			
No. of the post(s) Group-C, (Non-Gazetted)	Number of vacancies	Reservation status	
1. Lower Division Clerk	1500	Reservation of posts is as per the reservation roster maintained by the concerned departments and as per the State Government reservation policy. It will be notified later.	
2. Agriculture Assistant (Except TAFS Grade-III)	22		
3. Agriculture Assistant (TAFS Grade-III)	443		
4. Junior Operator (Pump)	236		
5. Junior Multi Tasking Operator (Un-common)	209		
Total Vacancies	2410		
Pay Structure	Name of the Post(Group-C, Non-Gazetted)	Pre-revised Scale of pay	Corresponding revised Scale of Pay.
	Lower Division Clerk		
	Agriculture Assistant (Except TAFS Grade-III)	PB-2, Pay Band Scale Rs.5700-24000/-	Cell-1 of Level -7 of Tripura State Pay Matrix, 2018 {Tripura State Civil Services (Revised Pay) First Amendment Rules,2018}.
	Agriculture Assistant (TAFS Grade-III)	Grade Pay Rs.2200/-	
	Junior Operator (Pump)	PB-2, Pay Band Scale Rs.5700-24000/-	Cell-1 of Level -6 of Tripura State Pay Matrix, 2018 {Tripura State Civil Services (Revised Pay) First Amendment Rules,2018}.
	Junior Multi Tasking Operator (un-common)	Grade Pay Rs.2100/-	
Subject to revision by the Government from time to time.			

	Junior Operator (Pump)	<u>Common for Junior Operator (Pump) and Junior Multi Tasking Operator (Un-common) i.e.</u>
	Junior Multi Tasking Operator (un-common)	(a) Madhyamik or equivalent examination passed from any recognized Board/Institution. And (b) National Trade Certificate (NTC) issued by National Council for Vocational Training (NCVT) in any of the following trade (i) Welder (Gas & Electric), (ii) Plumber, (iii) Turner, (iv) Fitter, (v) Mechanic Diesel, (vi) Pump Operator cum Mechanic, (vii) Wireman, (viii) Electrician

Desirable qualifications are also mentioned in the said notification dated 12.02.2021 where in one of the Clauses [Clause ‘c’] it is written that “As regards to the candidates who had participated in the cancelled recruitment process by the Department of Agriculture, they will be given **one time** age relaxation in the upper age limit subject to providing documentary evidence of their participation in the earlier recruitment processes for the same post(s).”

3. The petitioner in the earlier recruitment process which was initiated vide advertisement dated 03.01.2017, applied for the post of 'Junior Fitter'. It is an admitted position that the petitioner was qualified to apply for the post as regards his age because he was covered under Clause 'c' of the notification dated 12.02.2021. The application of the petitioner was accepted by the State-respondents and he was allowed to take part in the written examination. Consequently, he appeared before the interview board and participated in the process along with the copies of his National Trade Certificate [for short, 'NTC'] in the branch of 'Fitter'. Thereafter, the respondents published final merit list on 13.09.2023 wherein it was reflected that the last recommended candidate for the post of 'Junior Multi Tasking Operator' had scored 86 marks and last recommended candidate in the post of 'Junior Operator (Pump)' had scored 88 marks. Having not found his name in the merit list, the petitioner had submitted application under Right to Information Act and sought for reply as regards the marks he obtained in the examination. Under the RTI reply dated 10.10.2023, it was informed to the petitioner that he scored 102 marks. Since the petitioner had obtained higher marks than some of the candidates as stated here-in-above, he had served a demand notice through his learned counsel on 17.10.2023 requesting the JRBT authorities to correct the merit list and include his name in the said merit list as he secured higher marks than many of the candidates whose names are found in the merit list.

4. Having found no response, the petitioner had approached this Court by way of filing a writ petition bearing WP(C) No.729 of 2023. This Court disposed of the writ petition vide order dated 14.12.2023 directing the

respondents to consider his representation in accordance with law within a period of four weeks from the date of judgment and order. The petitioner submitted representation dated 21.12.2023 to the Chairman, JRBT enclosing therein a copy of the judgment and order passed in WP(C) No.729 of 2023 along with copies of the ITI/ Trade Certificate issued in favour of the petitioner.

5. In response to the said representation, the Chairman, JRBT, had rejected the claim of the petitioner for recommending his name in the merit list vide impugned communication dated 12.01.2024 on the sole ground that he was over-aged at the time of submission of his application. It is the case of the petitioner that in terms of Clause 'c' as extracted and quoted here-in-above, he was not over-aged because age relaxation was given under notification dated 12.02.2021. Thereafter, the petitioner submitted two applications stating *inter alia* that the post of 'Multi Tasking Operator' includes the post of 'Fitter' in terms of the notification dated 12.02.2021. But the petitioner has not received any satisfactory reply. Hence, the petitioner has no other alternative and efficacious remedy but to approach this Court by way of filing the instant writ petition.

6. The respondents by way of filing counter affidavit has stated that at the time of scrutiny of applications, the petitioner was found over-aged and thus he was not eligible to appear in the selection process. Further, it is mentioned in the counter affidavit (Para-11) that the petitioner had appeared before the interview board as per notice of the department dated 01.06.2017 for the post of 'Junior Fitter' under Post Code 6 held on 05.07.2017 against token no.4, which incidentally is not the 'same post' for which advertisement

was issued by the JRBT. More particularly, the candidature of the petitioner had been rejected on two grounds, firstly, the petitioner was over-aged at the time of submission of application in response to notification dated 12.02.2021 and secondly, the respondents did not issue advertisement for filling up the post of 'Junior Fitter' but 'Multi Tasking Operator' (un-common).

7. It is further stated in the counter affidavit (Para-18) that Sri Arpan Sarkar and Sri Debabrata Debnath under UR category at Sl. No.1965 and Sl. No.1963 were recommended in the final merit list for the post of 'Junior Multi Tasking Operator (un-common)' and 'Junior Operator (Pump)' having scored 86 marks and 88 marks respectively as well as considering their National Council for Vocational Training Certificate as required vide notification dated 12.02.2021.

8. In the light of above facts, questions fall for determination in the instant writ petition are that (1) whether the petitioner was over-aged at the time of submission of his application i.e. as per notification dated 12.02.2021 and (2) whether the application of the petitioner can be rejected as he submitted application against the post of 'Junior Fitter' in the earlier advertisement dated 03.01.2017.

9. I have heard Ms. S. Deb (Gupta), learned counsel appearing for the petitioner. Also heard Mr. S.M.Chakraborty, learned Advocate General assisted by Mr. D. Sarma, learned Addl. G.A. on behalf of the State-respondents. Ms. Deb (Gupta), learned counsel appearing on behalf of the petitioner has submitted that under notification dated 12.02.2021, the petitioner was not over-aged though on that date the petitioner attained the age of 41 years 08 months 24 days. The submission of learned counsel appearing

for the petitioner was based on age relaxation clause containing in Clause 'c' of the relevant portion of the notification dated 12.02.2021 which stipulates as a matter of reiteration that *“As regards to the candidates who had participated in the cancelled recruitment process by the Department of Agriculture, they will be given **one time** age relaxation in the upper age limit subject to providing documentary evidence of their participation in the earlier recruitment processes for the same post(s).”*

10. Admitted fact is that the petitioner had applied for the post of 'Junior Fitter' in response to the earlier advertisement which was issued by the State-respondents on 03.01.2017. During the course of hearing learned counsel appearing for the respondents has not disputed this fact.

11. I have gone through the said age relaxation Clause as quoted here-in-above. In my opinion, the application of the petitioner had to be entertained or accepted in view of above quoted Clause 'c'. Accordingly, the first question is decided in favour of the petitioner.

12. Now, coming to the second question for determination, it is relevant to revisit the notification/advertisement and the chart reproduced here-in-above. In the revised notification/advertisement dated 12th February, 2021, advertisement for filling up of 5 (five) nature of posts were made. These are- 1. Lower Division Clerk having number of vacancies 1500; 2. Agriculture Assistant (Except TAFS Grade-III) having number of vacancies 22; 3. Agriculture Assistant (TAFS Grade-III) having number of vacancies 443; 4. Junior Operator (Pump) having number of vacancies 236 and 5. Junior Multi Tasking Operator (un-common) having number of vacancies 209. In the said

advertisement, eligibility criteria including essential qualifications for filling up the above posts are also mentioned.

13. It comes to fore that for filling up the post of ‘Junior Multi Tasking Operator (un-common)’, the essential qualifications are having a valid NTC issued by National Council for Vocational Training (NCVT) in any of the following trades: (i) Welder (Gas & Electric), (ii) Plumber, (iii) Turner, (iv) Fitter, (v) Mechanic Diesel, (vi) Pump Operator cum Mechanic, (vii) Wireman, (viii) Electrician, etc.

14. During the course of hearing, this Court had made specific query to learned Advocate General to show this Court as to whether there is any post which is called ‘Junior Multi Tasking Operator (un-common)’. Learned Advocate General has fairly submitted that there is no such post. From the reply of learned Advocate General, it is also surfaced that under the National Council for Vocational Training (NCVT) there is no course under the nomenclature of ‘Junior Multi Tasking Operator (un-common)’.

15. From the notification dated 12th February, 2021 which was issued in revision to Advertisement No.01/2020 dated 27th November, 2020 *vis-à-vis* taking into account the submission of learned Advocate General that there is no such post under the nomenclature of ‘Junior Multi Tasking Operator (un-common)’, it becomes crystal clear that essential qualification for filling up the post of ‘Junior Multi Tasking Operator (un-common)’ is-- (a) Madhyamik or equivalent examination passed from any recognized Board/Institution and (b) one has to possess a certificate of Welder (Gas & Electric), Plumber, Turner, and Fitter, etc. These are the vocational training courses and certificates thereof which altogether has given the nomenclature of the post as

‘Junior Multi Tasking Operator (un-common)’. In other words, a person having qualification of Madhyamik or equivalent passed examination and having NTC in any of the streams as mentioned in the notification/advertisement is eligible to apply for the post of ‘Multi Tasking Operator (un-common)’. Indubitably, the petitioner is Madhyamik passed and having National Trade Certificate (NTC) issued by the National Council for Vocational Training (NCVT) in the trade of ‘Fitter’. Since the trade of ‘Fitter’ comes under the purview of the post of ‘Junior Multi Tasking Operator (un-common)’, in my opinion, the rejection of the candidature of the application on the ground that the petitioner does not possess essential qualification since he applied for the post of ‘Fitter’ is erroneous. Further, in the opinion of this Court, the State-respondents have failed to properly construe that a person having certificate in the trade of ‘Fitter’ comes under the purview of ‘Junior Multi Tasking Operator (un-common)’. This Court, at this juncture has asked learned Advocate General as to why they have not enclosed the trade certificates of Sri Arpan Sarkar and Sri Debabrata Debnath in this case.

16. In view of this, learned Advocate General has fairly submitted that he will produce the necessary certificates in respect of Sri Arpan Sarkar and Sri Debabrata Debnath on the next date i.e. on 27.02.2025.

17. List the matter on 27.02.2025 for verification whether these two candidates had any trade certificates as ‘Junior Multi Tasking Operator (un-common)’ and for continuation of the dictation of the judgment.

27.02.2025 18. Today, in terms of the order dated 25.02.2025, learned Advocate General has placed National Trade Certificates issued in favour of Arpan Sarkar and Debabrata Debnath, by Directorate General of

Training, Ministry of Skill Development and Entrepreneurship, Government of India and National Council for Vocational Training, Ministry of Skill Development and Entrepreneurship, Government of India, where the names of the trades against Arpan Sarkar and Debabrata Debnath have been shown as 'Electrician (NSQF)' and 'Electrician' respectively.

19. Placing the said two National Trade Certificates, learned Advocate General has firstly submitted that there is no course or trade under the nomenclature of 'Junior Multi Tasking Operator (un-common)'. I reiterate that the respondents have failed to show any such record justifying the fact that there is any trade which is called as 'Junior Multi Tasking Operator (un-common)'. In view of this, the plea of the respondents that the petitioner being applied for the post of 'Fitter' instead of the post of 'Multi Tasking Operator (un-common)' is disqualified and ineligible to find his place in the select list.

20. Considering the nomenclature of different courses or trades as narrated here-in-above, this Court may easily come to a definite conclusion that the posts of 'Fitter', 'Electrician', 'Welder', Turner, etc. come under the purview of nomenclature 'Multi Tasking Operator (un-common)'. Admittedly, the petitioner secured much higher marks (102) than those of many candidates including Arpan Sarkar and Debabrata Debnath. Learned Advocate General has fairly submitted that there are vacant posts still lying with the respondents. As such, the persons who already have been appointed even though they secured lesser marks than that of the petitioner should not be disturbed. So, the respondents are directed to accommodate the petitioner and publish a revised select list showing the name of the petitioner as successful candidate and consider the issuance of his appointment against the post of 'Multi-Tasking

Operator (un-common)', if he is otherwise eligible within a period of 30(thirty) days from the date of receipt of copy of this order.

21. Mr. D. Sarma, learned Additional G.A. has submitted that this order must not be treated as *judgment in rem but a judgment in personam* and should be confined only relating to the petitioner here-in-above. According to me, this submission of learned Additional G.A. is reasonable and logical. This process cannot be continued perpetually and this judgment cannot be treated as precedent if similar applications are filed in future.

22. Accordingly, the instant writ petition stands allowed and thus disposed.

23. Copies of the National Trade Certificates relating to Arpan Sarkar and Debabrata Debnath, as produced by learned Advocate General, may be kept on record for future reference.

JUDGE