GAHC040002862026 2026:GAU-AP:881

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/75/2026

Tangli Mossang
Son of Mungshom Mossang, presently serving as Trade Development Office and holding the charge of Assistant Director, Trade and Commerce on officiating basis, C Sector, Itanagar, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP and 3 Ors
through the Chief Secretary, Govt of Arunachal Pradesh, Itanagar,

2:The Commissioner
Age: 0
Occupation :
Trade and Commerce
Govt of Arunachal Pradesh
Itanagar.

3:The Secretary
Age: 0
Occupation :
Trade and Commerce
Govt of Arunachal Pradesh
Itanagar.

4:The Director
Age: 0
Occupation :
Trade and Commerce
Govt of Arunachal Pradesh
Itanagar

BEFORE

HON'BLE MR. JUSTICE BUDI HABUNG

Advocate for the Petitioner : Mr. Taba Tagum, ld. Adv.

Advocate for the Respondents : Mr. Subu Tapin, ld. Sr. GA (AP).

Date on which Judgment is reserved : 12.08.2026

Date of Hearing : 12.08.2026

Date of Judgment and Order : 03.09.2026

Whether the pronouncement is of the Operative part of the Judgment? :No

Whether the full Judgment has been pronounced ? : Yes

JUDGMENT & ORDER

(CAV)

Heard Mr. Taba Tagum, learned counsel for the petitioner. Also heard Mr. Subu Tapin, learned Senior Government Advocate for the State respondent.

2. By filing this writ petition, the petitioner is seeking direction against the respondent authority to constitute a review departmental promotion committee to consider the case of the petitioner for promotion to the post of Trade Development Officer with effect from the date on which the petitioner had attended the qualifying length of service for promotion to the same post as on dated 12.08.2016, on which date he was already holding the post of Trade Development Officer with regular pay scale of post on officiating basis with effect from 21.12.2015 against the substantive vacant post.

3. The case of the petitioner is that initially he was appointed to the post of

Inspector, Trade, and Commerce Group B (Non-Gazetted) by the Commissioner, Trade & Commerce Government of Arunachal Pradesh, Itanagar vide order dated 12.08.2011, through selection process on merit.

4. The further case of the petition is that the next promotional post from feeder post of the Inspector, Trade & Commerce under the Department of Trade and Commerce is Trade Development Officer (TDO). It is submitted that the Trade Development Officer is governed and regulated by a recruitment rules called the Trade Development Officer, Recruitment Rules 2010. As per column 11 of scheduled to the TDO Recruitment Rule, 2010, 50% of the post of TDO are filled up by way of promotion from serving Inspector of Trade & Commerce. Under column 12 of schedule to the said Rule, it is provided that the qualifying length of service for promotion to the post of Trade Development Officer is 6 (six) years of regular service in the grade of Inspector Trade and Commerce.

5. The petitioner contended that on dated 21.12.2015, one post of Trade Development Officer against the promotional quota had fallen vacant. That at the relevant point of time, the petitioner was the senior most serving Inspector in the department having completed more than four years of regular service in the grade. Therefore, in the interest of public service and on administrative exigency, vide order dated 21.12.2015, the petitioner was given promotion to the post of Trade Development Officer on officiating basis with grade pay of regular TDO Rs.4200/-

6. The learned counsel for the petitioner contended that the government had taken a policy decision and directed all the heads of Department to hold DPC in every six months to ensure timely promotion of the employees of the state. In this regard the Chief Secretary, Government of Arunachal issued Office

Memorandum dated 16.06.2016, directing all Head of Departments for timely and regular conduct of DPC at least once in every six months. However, despite of such standing order of the State Government, the DPC in respect of Trade Development Officer was not held on time by the respondent authority, although petitioner was given officiating promotion with regular pay scale of TDO with effect from 21.12.2015.

7. Learned counsel for the petitioner submits that the Recruitment Rule, 2010, which provides 50% of the post of TDO are to be filled up by way of promotion from serving Inspector of Trade and Commerce subsequently has been amended by enacting Trade Development Officer, Recruitment (Amendment) Rule, 2017. As per the Recruitment Rules, 2017, the qualifying length of service for promotion to the post of TDO from the post of Inspector is 5(five) years.

8. Learned counsel for the petitioner submits that subsequently the DPC was held on 01.07.2020 and recommended the officiating promotion of the petitioner to the post of Trade Development Officer (Group-B Gazetted), with effect from the date of the departmental promotion committee meeting on dated 01.07.2020 instead of regularizing his service with effect from 12.08.2016. Consequently, the petitioner's officiating service was not reckoned for the purpose of seniority and future promotion. The petitioner contended that due to the fault on the part of the Authority in conducting DPC on time, the progress and promotion avenue of the petitioner have been adversely affected. As such it is in violation of the ratio laid down by the Supreme Court in case of ***Union of India versus N.R Banerjee***, reported in ***(1997) 9 SCC, 287***, besides violation of Office Memorandum dated 16.06.2016 issued by the Government of

Arunachal Pradesh for conducting DPC at least once in every six months. He submits that, if the petitioner's officiating service were reckoned from 12.08.2016, he would have become eligible for consideration for promotion to the post of Assistant Director on 12.08.2024.

9. Learned counsel for the petitioner further submits that the petitioner had submitted several representations on dated 23.06.2021, 10.03.2025 and 20.06.2025, seeking review of the DPC held on 01.07.2020 and reckoning of his officiating service from 12.08.2016.

10. Mr. Tagum submits that, upon receipt of various representations made by the petitioner, the respondent authorities constituted a committee, who after consideration had observed that the petitioner had completed the qualifying service for promotion to the post of TDO on 12.08.2016, but, due to delay in holding the DPC, his officiating appointment was regularized only on 05.08.2020. Accordingly, the committee recommended for review of the DPC vide dated 25.08.2025.

11. He further submits that the petitioner is the senior-most serving TDO, as reflected in the provisional seniority list dated 05.07.2024. However, despite the recommendation dated 25.08.2025, no affirmative action has been taken by the respondent authorities for conducting the review DPC.

12. Mr. Tagum also submits that, being aggrieved, the petitioner has approached this Court by filing the present writ petition, praying for issuance of a direction to the respondent authorities to conduct a review DPC of the DPC held on 01.07.2020 and to reckon and regularize his officiating service as Trade Development Officer with effect from 12.08.2016.

13. Mr. Tagum further submits that, in a catena of decisions, the Hon'ble Supreme Court has held that the officiating service rendered by the employee cannot be ignored or discarded by the State authority, and that such period of service on officiating basis must be counted and computed for the purpose of reckoning seniority in service. In support of his above submission, Mr. Tagum has referred to the following decisions:

(i). ***Union of India and Anr. vs. Harish Chander Bhatia and Ors.***, reported in (1995) 2 SCC 48.

(ii). ***L. Chandrakishore Singh vs. State of Manipur and Ors.***, reported in (1999) 8 SCC 287.

(iii). ***S. Sumnyan and Ors. vs. Limi Niri and Ors.***, reported in (2010) 6 SCC 791.

14. Learned counsel for the petitioner further submits that in similar case, from the same department, the Coordinate Bench of this Hon'ble Court vide order dated 03.12.2024 has allowed the writ petition in WP(C) No. 164(AP)/2024, [***Toko Togur v. The State of Arunachal Pradesh & 3 Ors.***] and directed the respondent authority to constitute a DPC to review the case of the petitioner for being promoted to the post of Deputy Director, Trade & Commerce, w.e.f., the date of his officiating promotion, on which date he was promoted as officiating Deputy Director, Trade & Commerce, within the period of three months from the date of the said order. He further submits that the case of the present petitioner is squarely covered by the said order in writ petition in WP(C) No. 164(AP)/2024, [***Toko Togur v. The State of Arunachal Pradesh & 3 Ors.***]. Therefore, he prays that a similar direction may be issued to the respondent authorities to conduct a review DPC of the DPC held on 01.07.2020

and to reckon and regularize the petitioner's officiating service in the post of TDO with effect from 12.08.2016, for the purpose of determining seniority and consideration for further promotion to the post of Assistant Director, Trade & Commerce.

15. Mr. Tapin, learned Senior Government Advocate for the State respondents, fairly conceded the submission of the learned counsel for the petitioner and submitted that case of the petitioner and the case of the writ petition being WP(C) No. 164(AP)/2024, [***Toko Togur v. The State of Arunachal Pradesh & 3 Ors.***] are similar and both are from the same department, as such the case of the petitioner is a covered case. He further, submits that it is not known as to why the DPC did not count the service rendered by the petitioner as officiating Trade Development Officer.

16. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also gone through the decisions rendered by the Coordinate Bench of this Court in WP(C) No. 164(AP)/2024, [***Toko Togur v. The State of Arunachal Pradesh & 3 Ors.***] as referred by Mr. Tagum, learned counsel for the petitioner.

17. In the instant case, the petitioner was given officiating promotion to the post of Trade Development Officer, Trade & Commerce, with effect from 21.12.2015, against a clear vacancy, and was also given the regular grade pay of the said post. However, despite the Office Memorandum dated 16.06.2016, directing the Heads of Departments to convene DPCs at least once every six months, no DPC was conducted for consideration of regularization of the petitioner's officiating promotion. The DPC was eventually held on 01.07.2020, and the petitioner's officiating promotion was regularized with effect from the date of the DPC, i.e. 01.07.2020, instead of 12.08.2016, on which date the

petitioner had acquired the requisite qualifying service of five years under the applicable Recruitment Rules. Thus, the period of officiating service rendered by the petitioner was not reckoned for the purpose of seniority and future promotion.

18. Since the petitioner had rendered service as Trade Development Officer, Trade & Commerce, on officiating basis with effect from 21.12.2015, against a substantive vacant post, and had been granted the regular pay scale of the said post, and since he had acquired the requisite qualifying service for promotion to the post of Trade Development Officer on 12.08.2016, this Court is of the view that the period of service rendered by the petitioner as TDO ought to have been considered by the DPC held on 01.07.2020. The failure to do so has caused serious prejudice to the petitioner.

19. In view of the aforesaid facts and circumstances of the case, and having considered the submissions of learned counsel appearing for the parties as well as the legal proposition discussed hereinabove, and also considering that similar matter has been allowed by the Coordinate Bench of this Court vide order dated 03.12.2024 in WP(C) No. 164(AP)/2024, [***Toko Togur v. The State of Arunachal Pradesh & 3 Ors.***], this Court is inclined to allow the writ petition.

20. Accordingly, the respondent authorities are directed to constitute a DPC to review the case of the petitioner for reconsideration for his promotion to the post of Trade Development Officer with effect from the date when he had attained qualifying service for promotion to the post of TDO in terms of relevant recruitment rules i.e., on 12.08.2016, and to pass appropriate consequential orders in accordance with law.

21. The aforesaid exercise shall be completed within a period of three months

from the date of receipt of a certified copy of this order. The petitioner shall obtain a certified copy of this order and place the same before the respondent authorities within a period of two weeks from today.

22. In terms of above, the writ petition stands disposed of.

JUDGE

Sabnam Mepo (Senior Personal Assistant)