

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.108 of 2025

- 1) The Union of India, represented by the Secretary, Home Department, Having his office at Ministry of Home Affairs, North Block, Cabinet Secretariat, Raisina Hills, PO. GPO, PS. Kartavya Path, New Delhi, Dist.- Central Delhi, PIN-110011.
- 2) The Secretary, Staff Selection Commission, Having his office at Block No. 12, 4th Floor, CGO Complex, Lodhi Road, PO. Lodhi Road HPO, PS. Lodhi Colony, Dist - South Delhi, New Delhi-110003.
- 3) Director General, Central Reserve Police Force, Having his office at CGO Complex, Lodhi Road, PO. Lodhi Road HPO, PS. Lodhi Colony, District- South Delhi, New Delhi-110003.

.....Appellants.

VERSUS

Sri Jayanta Debnath, S/o. Madhusudhan Debnath, resident of 93-Banshapukur (East Para), Birampur, Jatrapur, PO.& PS. Jatrapur, Sub division - Bishalgarh, District- Sepahijala, Tripura, PIN-799131.

.....Respondent.

For Appellant(s)	:	Mr. Bidyut Majumder, Dy. SGI.
For Respondent(s)	:	Mr. Arnab Kar, Advocate.
Date of hearing	:	10.03.2026.
Date of pronouncement	:	07.04.2026.
Whether fit for reporting	:	NO

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

This Writ Appeal is filed by the appellants challenging the judgment of the learned Single Judge dated 20.06.2025 passed in WP(C)89 of 2024.

2. The sole respondent had filed the said writ petition seeking a direction to the appellants to appoint him to the post of Constable (GD) in

CAPFs, NIA & SSF and Rifleman (GD) in Assam Rifles forthwith pursuant to a notice dated 21.07.2018 published by the Staff Selection Commission (the 2nd appellant).

3. It is not in dispute that the said Commission had issued an advertisement for filling up posts of Constable in BSF, CISF, CRPF, etc. The respondent belongs to the OBC category and was granted age relaxation for appearing in the selection process. The respondent applied for the same and also qualified the Physical Standard Test followed by Written Examination in which he scored 55.10 marks. However, he was not called for Medical Examination.

4. He filed the Writ Petition contending that one Sagar Debnath, who scored 46.26 marks in the written examination, i.e less than the respondent, was provided job pursuant to an order of this court dated 13.12.2022 in WP(C) 701 of 2022 [*Sri Anirban Ghosh Vs. Union of India & 4 Ors.*]; and that a person who secured lesser marks than him could not have been appointed, as had occurred.

5. The appellants contended that the respondent belongs to the OBC category, but he was not selected in the final result of examination due to not meeting the lowest cut off for any post of OBC category in the State of Tripura. They also contended that he was not eligible for the unreserved posts since he has crossed the maximum age limit of 23 years as on 01.08.2018.

6. But nowhere in the counter affidavit had the appellants stated on what basis they selected Sagar Debnath who had secured lesser marks than the respondent. They also did not state whether Sagar Debanth belongs to OBC

Category or not. The only contention raised before the Single Judge was that said Sagar Debnath had been given the job on the basis of the direction given by this court in WP(C)701 of 2022.

7. The learned Single Judge by judgment dt. 20.06.2025 allowed the writ petition and directed the appellants to consider the case of the respondent for providing him a job against any available vacancy which still exists or may arise in future out of the same advertisement, without unsettling the merit list, if he is otherwise found eligible for getting such job, after considering his medical examination result.

8. The learned Single Judge held that in WP(C)701 of 2022 relied on by him in the impugned judgment, this Court had only given direction to the appellants to consider the case of the petitioners in that batch of writ petitions with further observation that the petitioners therein should not be deprived of their appointments if they are found eligible against the available vacancies which existed or might arise in future out of the same advertisement, without unsettling the merit list. He also held that nowhere was there any specific direction to the appellants to provide any job to said Sagar Debnath and even though Sagar Debnath had obtained lesser marks than the respondent in the merit list, the appellants had provided Sagar Debnath the job and denied the same to the respondent, which cannot be sustained.

9. The learned Single Judge held that if the appellants had considered Sagar Debnath for a job though he got lesser marks than the respondent, it was obligatory on them to consider the case of the respondent also.

10. The learned Single Judge also rejected the plea of laches raised by the appellant on the ground that though the recruitment process was completed in the year 2021, Sagar Debnath had been given appointment only on 13.06.2023, and thereafter, the writ petition was filed on 03.02.2024 and therefore, there were no laches on the part of the respondent.

11. In the Writ Appeal, a new plea has been raised by the appellants which had not been pleaded before the Single Judge, i.e. Sagar Debnath had not availed himself of any benefit admissible specifically to the OBC Category candidates only, and so he was entitled to be considered as a UR (unreserved)candidate in addition to his own OBC category, while the respondent was not entitled to be so considered under the UR category since he had availed himself of age relaxation specifically admissible to the candidates of OBC Category.

12. When the appellants had not raised such a plea before the learned Single Judge and had only contended that the respondent cannot be considered in the UR category because he claimed OBC reservation and did not fulfill the cut off for OBC category, they cannot give Sagar Debnath who was also an OBC, a job in the UR quota.

13. Curiously they have not indicated in the Counter affidavit filed by them before the learned Single Judge as to what was the cut off marks for an UR category candidate. This factor is very important because cut off marks for UR category candidates would normally be same or more than that of OBC Category.

14. If the appellants were only considering persons who had applied in a particular category (reserved or unreserved), they have to, while filling up the post, select the more meritorious person in that particular category and they cannot be permitted to choose the less meritorious candidate when both candidates belong to the same category (OBC in the instant case).

15. Their plea that a candidate availing himself of any benefit applicable to a reserved category cannot claim UR category, is not supported by any precedent. In fact experience shows that many times it happens that persons who claim reservation secure more marks than persons in UR category, which cut off is more than the cut off fixed for the UR category. Such persons would have to be appointed for the UR category posts on account of their superior merit. This is the settled legal position.

16. Therefore, we do not find any merit in the Writ Appeal. It is accordingly dismissed. No costs.

Pending application(s), if any, also stand disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)