

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.11/2023

Sri Chayan Chakraborty

.....Appellant(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Kawsik Nath, Advocate,
Ms. N. Ghosh, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharya, G.A.,
Ms. A. Chakraborty, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE T. AMARNATH GOUD**

Order

27/04/2023

We have heard Mr. P. Roy Barman, learned senior counsel assisted by Ms. N. Ghosh, learned counsel for the appellant/petitioner and Mr. Debalay Bhattacharya, learned Government Advocate for the respondents-State.

2. Petitioner was engaged as a Data Entry Operator on 04.12.2015 on contractual basis by order dated 05.04.2017 (Annexure-3) issued by the

Deputy Director of Horticulture, Gomati District, Udaipur. He continued to work and get contractual remuneration as stipulated from time to time.

3. Mr. P. Roy Barman, learned senior counsel for the petitioner, has pointed out to the letter dated 18.03.2020 bearing No.1534-36 issued by the Deputy Director of Horticulture, Gomati District, Udaipur to show that the services of the petitioner were appreciated. The Deputy Director of Horticulture has opined that he has been working with sincere efforts till date. It is submitted that, however, suddenly in March, 2021 he has been disengaged unceremoniously without any order or basis. It is also pointed out that meanwhile respondents No.5 and 6 have been engaged in July, 2019 and in July, 2020 also on ad-hoc basis as contractual employees. It is further submitted that if the engagement of Data Entry Operators is being done on ad-hoc basis, one ad-hoc employee should not be replaced by another as is the well settled position in law. However, since there are no orders of disengagement, the petitioner is in dark as to the basis or reason for his disengagement, more so, when the Deputy Director of Horticulture, Gomati District, Udaipur had clearly opined that petitioner's work was sincere. Learned senior counsel for the petitioner submits that the learned Writ Court

has, however, refused to interfere in the matter without appreciating these contentions.

4. Mr. Debalay Bhattacharya, learned Government Advocate for the respondents-State, has referred to the counter affidavit filed in the writ proceedings. He submits that Data Entry Operators like the petitioner are only engaged through local engagement for day to day work in the office. It is completely on temporary basis. At paragraph-15 of the counter affidavit, it has been stated that respondent authority did not discontinue him but since long back, he is found very much irregular and his work is not satisfactory. Further at paragraph-16 it is stated that the respondent did not discontinue him but due to his unsatisfactory performance as he is found irregular.

5. Undisputedly, there is no order of disengagement of the petitioner who was officially engaged by an order dated 05.04.2017. The reasons behind his disengagement cannot be fathomed by this Court in the absence of any proper office order. Whether the services of the petitioner were not required on that post or whether his conduct was not proper is in the realms of darkness since there is no office order for his disengagement. The counter affidavit filed by the respondents cannot be treated as the reason for his disengagement in absence of a proper office order.

6. In that view of the matter, we direct the competent authority i.e., the Director of Horticulture, Department of Horticulture & Soil Conservation, Government of Tripura, respondent No.3 herein, to take a decision on the question of continuance or disengagement of the writ petitioner in accordance with law within a period of 4(four) weeks from today after giving an opportunity to the petitioner to represent.

7. The writ appeal is disposed of accordingly.

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

(T. AMARNATH GOUD), J

(APARESH KUMAR SINGH), CJ

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