

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.48 of 2021

Shri Nalesh Debbarma, S/O. Shri Fulendra Debbarma, Resident of
Juddepabari, P.O. Shankhala, P.S. Kalyanpur, District- Khowai Tripura.

..... Appellant(s)

V E R S U S

1. State of Tripura, represented by the Secretary to the Govt. of Tripura in the Home Department, having its office at New Capital Complex, P.O. Kunjaban, Agartala, District- West Tripura.

2. Director General of Police, Govt. of Tripura, having its office at Akhaura Road, P.O. Agartala, District- West Tripura.

3. Commandant E-coy 10th Bn. TSR (IR-V), having its office at Jirania, P.O. Jirania, District- West Tripura.

.....Respondent(s)

For Appellant(s) : Mr. T.D. Majumder, Sr. Advocate,
Mr. B. Debnath, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharya, G.A.,
Mr. Soumyadeep Saha, Advocate.

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Date of hearing and judgment : **8th February, 2023.**

JUDGMENT & ORDER (ORAL)

Heard Mr. T.D. Majumder, learned senior counsel assisted by
Mr. B. Debnath, learned counsel appearing for the appellant. Also heard Mr.
Debalay Bhattacharya, learned Government Advocate assisted by Mr.
Soumyadeep Saha, learned counsel appearing for the respondents-State.

2. This writ appeal is directed against the order dated 18.12.2020 passed by the learned Single Judge in WP(C) No.524 of 2020 wherein the learned Single Judge did not entertain the writ petition mainly on the ground of delay and laches and consequently, dismissed the same.

3. Brief facts of the case are that the petitioner was serving as a Rifleman in 10th Battalion of Tripura State Rifles. He was granted one day's casual leave on 08.01.2015, but he did not resume his duty in due time and submitted an application on 11.01.2015 for 15(fifteen) days leave on medical ground which was not granted. He was asked to join his duty immediately but he did not turn up and overstayed unauthorisedly. Thereafter, departmental charge sheet was issued against him for such absence. It was also charged that during his absence from duty, he was involved in a criminal case of offence punishable under Section 302 of IPC read with Section 27 of Arms Act. On completion of inquiry, the disciplinary authority finally dismissed the petitioner from service vide order dated 26.03.2016. Subsequently the petitioner had preferred an appeal against the final order of "Dismissal from Service" but the same was dismissed by the appellate authority vide order dated 07.11.2016. Challenging the said appellate order dated 07.11.2016, petitioner had filed a writ petition being WP(C) No.524 of 2020 and the same got dismissed vide order dated 18.12.2020 by the learned Single Judge. Being aggrieved and dissatisfied with the said order of the

learned Single Judge, the petitioner has preferred the instant appeal. Hence, this case.

4. Appellant has prayed for the following relief:

"That in the facts and circumstances it is humbly prayed that Your Lordship would be kind enough to consider the facts & circumstances of the case and would set aside the judgment & order dated 18.12.2020 in W.P.(C) 524 of 2020 and would hear the writ petition on merit and pass order setting aside the dismissal from service."

5. Mr. T.D. Majumder, learned senior counsel appearing for the appellant, contends that the reason of delay behind filing the impugned writ petition was that the appellant was wrongly advised and also contends that the appellant was in custody having entangled in a criminal case and the same was well known by the department concerned and this is one of the reasons for his being absent from performing his regular office duties. He further contends that the learned Single Judge did not consider the reasons assigned by the petitioner in the writ petition regarding delay in approaching this Court. Accordingly, he prays for hearing the matter on merit and setting aside the order dated 18.12.2020 passed by the learned Single Judge in WP(C) No.524 of 2020 and also to quash the order of dismissal dated 26.03.2016 and the appellate order dated 07.11.2016.

6. On the other hand, Mr. Debalay Bhattacharya, learned Government Advocate appearing for the respondents-State, vehemently objected the submissions advanced by the learned senior counsel for the appellant *inter alia* contending that the learned Single Judge committed no error while passing the impugned order. Hence, he prays for dismissal of the writ appeal.

7. Having heard the submissions of the rival parties, we are of the considered view that there is a delay of almost four years on part of the appellant-petitioner in filing the writ petition from the date of passing of the appellate order which cannot be looked over and also of the view that the learned senior counsel appearing on behalf of the appellant has failed to give any justifiable explanation behind such delay and laches which are relevant in exercise of writ jurisdiction.

8. Accordingly, the writ appeal being devoid of merit stands dismissed. The impugned order dated 18.12.2020 passed by the learned Single Judge in WP(C) No.524 of 2020 is confirmed.

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

(ARINDAM LODH), J

CHIEF JUSTICE (ACTING)

Pijush