

**HIGH COURT OF TRIPURA
AGARTALA**

Review Pet. No.11/2023

Shri Arindam Ghosh

----Petitioner(s)

Versus

The State of Tripura and others

-----Respondent(s)

For Petitioner(s)	: Mr. S.M. Chakraborty, Sr. Advocate, Mrs. P. Chakraborty, Advocate, Ms. Mampi Chakraborty, Advocate, Ms. Ankita Pal, Advocate.
For Respondent(s)	: Mr. Dipankar Sarma, Addl. G.A.

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

Order

08/02/2023

Heard Mr. S.M. Chakraborty, learned senior counsel assisted by Mrs. P. Chakraborty, learned counsel appearing for the review petitioner. Also heard Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. This review petition is filed by the review petitioner under Article 215 of the Constitution of India read with Section 114 of the Code of Civil Procedure seeking review of the judgment and order dated 03.11.2022 passed by this Court in W.A. No.27 of 2017 insofar as the findings of guilt

given against the petitioner in the departmental proceedings was vitiated by denial of natural justice and defective procedure followed in the departmental proceedings.

3. The case of the review petitioner, in brief, is that while working as Assistant Engineer in the office of the Executive Engineer, PHE Division, Ambassa with another Junior Engineer Sudip Sinha, he was the in-charge of supervising the construction of a overhead water tank. After about four years of his transfer from the said office, a departmental proceeding was initiated against the petitioner and his colleague Sudip Sinha on the charge of "negligence in supervising the construction work" by the contractor. Though the overall supervising responsibility was on the Executive Engineer, but basing on the perfunctory evidence the petitioner and Sudip Sinha were found guilty of negligence in the proceedings and major punishment was imposed on them. Thereafter, the petitioner filed statutory appeal but of no avail. As such, he preferred a writ petition being WP(C) No.266 of 2011 which was dismissed by the learned Single Judge vide judgment and order dated 25.04.2017. Against that order, the petitioner had preferred an appeal being W.A. No.27 of 2017 which was also dismissed by the Division Bench by its judgment and order dated 03.11.2022. Aggrieved thereby, the petitioner has preferred this review petition. Hence, this case.

4. Mr. S.M. Chakraborty, learned senior counsel assisted by Mrs. P. Chakraborty, learned counsel appearing for the review petitioner, contends that though the construction work was entrusted with the petitioner, the overall supervising responsibility was on the Executive Engineer but in spite of that the charge of negligence in supervision of construction work was leveled against him in the departmental proceedings and the petitioner was not afforded reasonable opportunity to defend his case during such proceedings and the Division Bench without appreciating that aspect of the matter passed an erroneous judgment without following the principle of natural justice. Counsel also contends that the Division Bench committed an error in the judgment while coming to the conclusion that Sri R.K. Majumder, Chairman of Technical Expert Committee was examined by the Inquiring Authority and cross-examined by the petitioner and, therefore, his contention that he was deprived of cross-examining the said witness is devoid of merit is an apparent error on the face of record. Counsel further contends that the Division Bench while extracting the order of the appellate authority dated 24.05.2011 in paragraph-11 of the judgment did not consider the finding of the appellate authority regarding closure of prosecution witness was nothing but a misquotation of order dated 19.05.2009 in which the Inquiring Authority ordered closure of prosecution witnesses because of non-appearance of Ranjit Majumder to face cross-

examination despite issuance of several notices at the instance of the petitioner on acceptance of VCD by the Inquiring Authority subsequent to completion of evidence of said Sri Majumder and as such, it is an apparent error on the face of the record. Accordingly, he prays for review of the impugned judgment and order dated 03.11.2022.

5. Having heard the submissions of learned counsel for the review petitioner, this Court is of the opinion that whether the contentions raised by the learned senior counsel hereinabove are right or wrong is not to be commented on by us because in case, the petitioner is aggrieved, he can avail the remedy of appeal by approaching the Apex Court. The powers of review are limited to correcting errors which are apparent on the face of the record and on bare perusal of the impugned judgment under review, we find no such error apparent on the face of the record.

6. Accordingly, we find no merit in the review petition which is accordingly dismissed.

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

(ARINDAM LODH), J

CHIEF JUSTICE (ACTING)

Pulak