

HIGH COURT OF TRIPURA
AGARTALA

WA 84 OF 2021

Shri Nityananda Sarkar, son of Late Satish Chandra Sarkar,
Resident of Surjyomoni Nagar, PO-Tripura University,
PS-Amtali, District-West Tripura, Age-52.

....**Appellant.**

Vrs.

1. The State of Tripura, represented by the Principal Secretary,
Home Department, Government of Tripura, New Capital Complex,
Agartala, District-West Tripura.

2. Director General of Police, Tripura, Police Head Quarters,
Fire Brigade Chowmohani, A.K. Road, PS-West Agartala,
PO & Sub-Division-Agartala, District-West Tripura.

3. Inspector General of Police (Law & Order), Tripura,
Police Head Quarters, Fire Brigade Chowmohani, A.K. Road,
PS-West Agartala, P.O. & Sub-Division-Agartala, District-West Tripura.

4. Deputy Inspector General of Police (NR), Tripura,
Police Head Quarters, Fire Brigade Chowmohani, A.K. Road,
PS-West Agartala, P.O. & Sub-Division-Agartala, District-West Tripura.

5. Superintendent of Police (RSV), Dhalai District, Jaharnagar, Ambassa,
Tripura.

6. Sub Divisional Police Office, Ambassa Dhalai District, Tripura.

....**Respondents.**

For the appellant(s) : Mr. S. Lodh, Advocate.

For the respondent(s) : Mr. D. Bhattacharya, G.A.
Mr. S. Saha, Advocate.

Argument heard and :
judgment delivered on **12.01.2023**

Whether fit for :
reporting Yes/ No

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

JUDGMENT & ORDER(ORAL)

[T.Amarnath Goud, ACJ]

The present writ appeal is directed against the judgment and order dated 17.12.2020, passed by the learned Single Judge in WP(C) No.656 of 2020 whereby the learned Single Judge has dismissed the writ petition.

2. Brief facts of the case of the appellant (here-in-after referred to as the petitioner) is that he being the Inspector of Police was charge-sheeted by the respondent no.5 for his misconduct and negligent in duty. A departmental proceeding was initiated where four charges were framed against the petitioner. The charges included of illegal detention and deliberate mishandling of a case involving allegations of rape and conniving with the family members of the accused. On completion of inquiry, all except one charge were found to have been proved. The charge of connivance with the family members of the accused was not proved. The Disciplinary Authority imposed punishment of withholding three increments without any cumulative effect (instead of with cumulative effect) from the date of last annual increment. The petitioner preferred appeal against such order and the Appellate Authority vide order dated 30th

July, 2016, dismissed the appeal and enhanced the punishment to withholding of three increments with cumulative effect. The petitioner subsequently made representation to the Director General of Police (the Appellate Authority) and sought review of the appellate order. But, after that the petitioner took no steps till filing of the writ petition before the learned Single Judge.

3. Heard Mr. S. Lodh, learned counsel appearing for the petitioner as well as Mr. D. Bhattacharya, learned G.A. appearing for the State-respondents.

4. Mr. Lodh, learned counsel at the outset submits that learned Single Judge has dismissed the writ petition on the ground of delay and laches which is illegal and unsustainable in law. He further submits that learned Single Judge has committed error in holding that pendency of the review against the appellate Order dated 30.07.2016 is not justifiable case for delay in filing the writ petition and hence, the impugned judgment is liable to be interfered with. Accordingly, Mr. Lodh, learned counsel has prayed for quashing/setting aside the impugned judgment and order dated 17.12.2020, passed by Single Judge in WP(C) 656 of 2020.

5. Appearing on behalf of the respondents, Mr. D. Bhattacharya, learned G.A. submits that learned Single Judge has rightly decided the writ

petition on the ground of delay and laches on behalf of the petitioner since the petitioner had approached this Court more than four years after the Appellate Authority passed the impugned order. His prayer for review was also more than a year after the Appellate Authority had disposed of the appeal. Mr. Bhattacharya, learned G.A. has prayed for upholding the impugned judgment and order dated 17.12.2020.

6. Having considered the facts and circumstances of the case and the rival submissions of learned counsels appearing for the parties, we are of the view that the impugned order of learned Single Judge was not justified in dismissing the writ petition on the ground of delay and laches. It transpires that the petitioner sought review of the appellate order on 18th November, 2017, but, till the date of filing of this appeal the prayer of the petitioner has not been addressed to by the respondents. At least the petitioner had expected that an order would be passed on his representation for review of the appellate order or the petitioner ought to have been given an opportunity of being heard.

7. In view of the above, the impugned judgment and order dated 17.12.2020, passed by learned Single Judge in WP(C) 656/2020 are hereby set aside and quashed.

8. Accordingly, the respondents are directed to decide the review application filed by the petitioner on 18th November, 2017 in accordance with law within two months from the date of receipt of the copy of this order.

9. The instant writ petition, accordingly, stands disposed.

JUDGE

CHIEF JUSTICE (ACTING)



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