

**HIGH COURT OF TRIPURA
AGARTALA
WA NO.98 OF 2021**

Sri Goutam Kumar Paul

..... **Appellant(s)**

Vs.

The State of Tripura and ors.

..... **Respondent(s)**

For the Petitioner(s) : Mr. Somik Deb, Sr. Advocate.
Mr. K. Debnath, Advocate.

For the Respondent(s) : Mr. D. Bhattacharjee, G.A.
Mr. Soumyadeep Saha, Advocate.

Date of hearing and delivery of
Judgment & Order : 04.04.2023.

Whether fit for reporting : YES/NO.

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

JUDGMENT AND ORDER(ORAL)

This present writ appeal has been filed under Rule 2 of Chapter V-A of the Gauhati High Court Rules read with Article 226 of the Constitution of India, against the impugned Judgment and Order dated 25.01.2021 passed in WP(C) No.503 of 2020, whereby the Hon'ble Single Judge, dismissed the writ petition.

2. The brief fact of this case is that the petitioner was engaged as a contractual worker under the District

Disability Rehabilitation Centre (DDRC) initially on 02.05.2008 and he continued till 30.06.2020. The petitioner is admittedly a contractual worker whose service was lastly extended for a period of one year from 01.07.2019 to 30.06.2020 on the terms and conditions *inter alia* that the contractual service can be discontinued by the authority at any time during the contract period on the ground of bad performance in discharging duties/misbehavior/misconduct/indiscipline. However, the petitioner was allowed to continue in the said service till the last day in terms of the engagement order dated 04.09.2018. On 30.06.2020, the petitioner was communicated by the District Disability Rehabilitation officer that since the performance of the petitioner is found not satisfactory, his engagement will not be extended after 30.06.2020. In such circumstances, the petitioner filed a writ petition bearing No.WP(C) No.503 of 2020 before the learned Single Judge for quashing the impugned memorandum dated 30.06.2020 and prohibiting the respondents to act in the matter in furtherance of the said memorandum and further to re-instate him to the post of Multipurpose Rehabilitation Worker, under the District Rehabilitation Centre, West Tripura.

3. The learned Single Judge dismissed the said writ petition in the following terms:-

"Having appreciated the submission of the learned counsel for the parties and the materials placed in the proceeding, this court is of the view that the observation as to performance cannot be treated as stigmatic. It is within the domain of the employer to assess the performance for purpose of extension. That cannot be stated as stigmatic. It does not reflect anything adverse on the skill of the petitioner at all.

Be that as it may, the said observation, for whatever purpose, can never be treated as stigmatic by any person in future. But this court does not find any infirmity in the order of discontinuance as that has been issued in terms of the condition of service inasmuch as the nature of the petitioner's service is contractual one and it will definitely be governed by the conditions of the contract. Considering the length of the service, the respondents may consider the petitioner's case for future engagement at their discretion."

4. Hence the appellant herein has filed this present writ appeal to quash/set aside the impugned Judgment and Order (Oral) dated 25.01.2021, passed in WP(C) No.503 of 2020, and thereafter, allow this Writ Appeal, thereby mandating/directing the respondents, to revoke/rescind the impugned memorandum dated 30.06.2020 (Anneuxe-4 to the WP) and thereupon, re-instate the appellant to the post of Multipurpose Rehabilitation Worker, under the District Rehabilitation Centre, West Tripura.

5. Heard Mr. Somik Deb, learned Sr. counsel assisted by Mr. K. Debnath, learned counsel appearing for the appellant as well as Mr. D. Bhattacharjee, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the respondents.

6. Mr. Deb, learned Sr. counsel appearing for the appellant submits that the petitioner received appreciation from the employers from time to time and those certificates of

appreciation are annexed herewith. But the respondents did not extend the engagement of the appellant since his service was not found satisfactory. So the same is contradictory and the appellant herein should be reinstated to service and the impugned memorandum needs to be quashed.

7. Heard both sides and perused the evidence on record. For a contractual worker, it is within the domain of the employer to assess the performance for purpose of extension and this Court cannot interfere in the same. However, in so far memorandum dated 30.06.2020 issued against the appellant herein is concerned, this Court clarifies that it cannot be treated as a stigma to the service of the appellant.

8. With the above observation and direction, this present writ appeal stands dismissed. As a sequel, stay if any stands vacated. Pending application(s), if any stands closed.

JUDGE

CHIEF JUSTICE (ACTING)