

**HIGH COURT OF TRIPURA
AGARTALA**

WA 101 of 2021

Shri Sitangshu Chakraborty,
Executive Engineer, Drinking Water and Sanitation,
Public Works Department, Division No.IV,
Government of Tripura, Agartala, West Tripura

---Appellant(s)

Versus

1. The State of Tripura

Represented by the Chief Secretary, Government of Tripura
New Secretariat Complex,
PO: New Secretariat, PS: New Capital Complex, Agartala
District: West Tripura, Tripura: 799010.

2. The Principal Secretary,

Government of Tripura, GA(AR) Department, New Capital Complex, PO: New Secretariat, PS: New Capital Complex, Agartala, District: West Tripura, Tripura-799010.

3. Sri S.K. Debnath,

Commissioner of Departmental Inquiries,
Government of Tripura, Agartala, West Tripura.

---Respondent(s)

For Appellant(s)	: Mrs. P. Dhar, Adv.
For Respondent(s)	: Mr. M. Debbarma, Addl.GA.
Date of hearing & date of delivery of judgment and order	: 19.07.2023
Whether fit for reporting	: No

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH**

Judgment Order (Oral)

This is an appeal under Rule 2 of Chapter VA of Gauhati High Court Rules as applicable against the judgment and order dated 21.01.2021 passed in WP(C) 103 of 2015.

[2] The reliefs sought for in WP(C) No.103 of 2015 may be reproduced here-in-below:

- (i) *Issue Rule asking the respondents to show cause as to why the initiation of proceeding by Annexure-2 document should not be declared illegal, and inquiry report (Annexure-5) and also the disciplinary action by imposing penalty (Annexure-P-6) and the appellate order (Annexure-P-7) should not be quashed being drawn and issued illegally, unfairly in deviation from the norms, practices and rules;*
- (ii) *After hearing the parties and being satisfied about the illegalities and perversities in the proceeding and the order of penalty, make the rule in terms of (1) above absolute;*
- (iii) *Pass any other order/orders as may be deemed fit and proper for ends of justice.*

[3] After hearing the learned counsel for the parties, the learned Single Judge has observed in the following manner while dismissing the petition of the petitioner:

"7. With this background if one peruses the materials on record, it clearly reveals that the charges against the petitioner were serious. The imputation of misconduct which was ultimately proved and the detailed report of the Inquiry Officer would suggest that the payments were made against non-existent works and by artificially breaking down the expenditure, further scrutiny and recurs of procedure were avoided. The findings of the Inquiry Officer would suggest that the complicity of the petitioner was not merely at the stage of being negligent. It was indirectly held that with the connivance of the petitioner the incidents would not have been possible. Once this matter established, the question of imposition of penalty largely is within the realm of the discretion of the disciplinary authority. In the present case, considering the charges leveled against the petitioner and found to have been proved, the punishment of recovery of a portion of the Government loss and withholding of promotion for two years cannot be stated to be excessive by any standard."

[4] Being aggrieved by and dissatisfied with the impugned judgment and order, the petitioner has preferred the present writ appeal before this court.

[5] The case of the petitioner that he has challenged an order dated 24th January, 2013 by which he has been visited with the penalty of depositing a sum of Rs.1,50,000/- to the Government and further, his promotion would be withheld for a period of two years from the date of order. At the relevant time, the petitioner was working as an Executive Engineer and was posted at Division No.4 Agartala. It appears that an anonymous complaint was received by the department alleging that in the execution of two works in the nature of rewinding of different capacity of damaged submersible pumps in the Mohanpur Sub-Division, there were gross irregularities and defalcation of Government funds to the tune of Rs.3,04,910/- and Rs.2,99,100/- respectively. This charge sheet was framed against the petitioner, an Assistant Engineer, and two junior Engineers working the same Sub-Division at the relevant time. The petitioner denied the charges and mainly contended that he was working only in the supervisory capacity and even if there was any irregularity in execution of the work, he cannot be held responsible for the same. The department had conducted a preliminary inquiry by appointing one Dipak Chandra Das, Superintending Engineer, who had submitted a detailed report holding prima facie that all four officials were responsible for misappropriation of Government funds. The proceeding was concluded by imposing punishment of recovering money compensating the loss incurred by the Government and also stopping two increments. Against the order of punishment the appellant preferred appeal but the appeal was disposed of by the order dated 13.03.2013 without communicating to the appellant. The appellant came to know unofficially about

the appellate order and then approached this Hon'ble Court praying for quashing the proceeding and the order of punishment vide Case No.WP(C)103 of 2015 on 18.03.2015 which was dismissed by the learned Single Judge vide Judgment and Order dated 21.01.2021. Aggrieved by the said judgment and order dated 21.01.2021 passed by the learned Single Judge, the appellant has approached this court by way of filing the writ appeal.

[6] Being dissatisfied by the actions and/or omissions on the part of the respondent authorities, the petitioner filed the Writ Petition bearing reference number as WP(C) 103 of 2015. The said writ petition was dismissed by the Hon'ble High Court of Tripura by its judgment and order dated 21.01.2021. Being aggrieved by and dissatisfied with the said judgment dated 21.01.2021, the petitioner has approached this court by way of filing a writ appeal.

[7] Heard learned counsel for the parties.

[8] Mrs. P. Dhar, learned counsel appearing for the appellant has submitted before this court that learned Single Judge while adjudicating the Writ petition of the petitioner failed to take in to account the fact that the inquiry proceeding was wrongly initiated in clear deviation from the instructions of Central Vigilance Commissions contained in Circular dated 31.01.2002 which stipulates that anonymous/pseudonymous complaints are not to be acted upon because such complaints create loophole for blackmailing and detrimentally affecting the career of public servant.

[9] In course of his submission, learned counsel for the appellant has contended that the learned Single Judge while adjudicating the writ petition of the petitioner failed to take into account the fact the inquiry authority wrongly concluded that the writ petition is negligent and wrongly approved the spot quotations invited by the Assistant Engineers. The approval was given following the provisions of Delegations of Financial Power Rules. It is to be mentioned here that quick repairing and rewinding of submersible motors and pumps are normal and day to day routine maintenance work of the department. The actual situation of the damaged motors or pumps cannot be verified by the Executive Engineer, but the verification is done after the work is completed. Thus, the writ petitioner committed no wrong nor deviated from the norms of the work by approving the spot quotations for normal running of the water supply.

[10] On the contrary, Mr. M. Debbarma, learned Addl. GA appearing for the state respondents has submitted before this court that there are no laches on the impugned order dated 21.01.2021 and hence the same may not be interfered with.

[11] In view of the above discussion, we are of the view that the appellant has not approached this court with clean hands. Moreover, the learned single judge has rightly observed that the findings of the Inquiry Officer would suggest that the complicity of the petitioner was not merely at the stage of being negligent. It was indirectly held that with the connivance of the petitioner the incidents would not have been possible. Once this matter established, the question of imposition of penalty largely is within the realm of the discretion of the disciplinary authority. In the present case, considering the charges leveled against the petitioner and found to have been proved, the punishment of recovery of a portion of the Government loss and withholding of promotion for two years cannot be stated to be excessive by any standard."

[12] In view of the above, the instant writ petition stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any also stands closed.

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