

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.303 OF 2023**

Dr. Tejendra Bhakta

..... **Petitioner(s)**

Vs.

The State of Tripura and ors.

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

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

For the Respondent(s) : Mr. D. Sharma, Addl.G.A.

Date of hearing and delivery of
Judgment & Order : 14.12.2023.

Whether fit for reporting : YES/NO.

**HON'BLE MR JUSTICE T. AMARNATH GOUD
JUDGMENT AND ORDER(ORAL)**

Heard Mr. S. Lodh, learned counsel appearing for the petitioner as well as Mr. D. Sharma, learned Addl. G.A. appearing for the respondents.

2. The brief fact of this case is that on 01.03.1989, the petitioner joined as a Demonstrator in the Regional Pharmacy Institute, which was later renamed as Institute of Pharmaceutical Science and Technology(*for short 'RIPSAT'*). On 03.07.2993, one Type IV(C) Government Quarter was allotted in his favour of the petitioner and he started to stay there. On 06.06.1997, on being selected by TPSC, he joined as Assistant Professor in RIPSAT and later on, the said post was re-designated as Lecturer(Selection Grade). On 31.03.2019, the petitioner retired from service on

08.03.2019 and he was re-appointed as Lecturer (Selection Grade) on a contractual basis for a period of one-year w.e.f. 01.04.2019 and, thereafter, it was extended from time to time till 31.03.2023. As per the decision of the Advisory Committee, which was approved by the Government, the petitioner started to take classes in B.Pharm(Practice) Course and got remuneration of Rs.700/- per class. Thereafter respondent No.2 issued an impugned memo dated 23.03.2023, whereby he held that the petitioner received Rs.55,300/- illegally and accordingly ordered to recover the amount. Thereafter, the petitioner vide his letter dated 10.03.2023, requested respondent No.2 to withdraw the said instruction of refund. Respondent No.3 conveyed that the competent authority did not consider his representation dated 10.03.2023. Respondent No.4 also passed an impugned Order dated 22.02.2023, directing the petitioner to pay Rs.2,22,972/- as an outstanding amount for occupying the Government quarters. The petitioner vide his letter dated 28.02.2023 vacated the quarters by handing over the key to respondent No.4. Thereafter, the in-charge respondent No.4 issued an impugned memo. dated 13.04.2023, directing the petitioner to deposit his outstanding amount of Rs.2,22,972/- + Rs.45,300/- by Treasury Challan on or before 18.04.2023.

In the above circumstance, the petitioner has filed this present petition under Article 226 of the Constitution of India seeking the following reliefs:-

" i. Issue Rule calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued for calling for calling the records, lying with the official respondents, for rendering substantial and conscionable justice to the petitioner;

ii. Issue Rule calling upon the respondents to shoe cause as to why a Writ of Certiorari and/or in the nature thereof for quashing/setting aside the impugned Memo No.F.1(5)-Secy/Health(Misc.)/2022/437-442, dated 23.02.2023(Annexure 8 supra), Order No.F.1(46)-RIPSAT/ADM/98-99/Vol.III/2455-60, dated 17.03.2023(Annexure-10 supra), Memo NO.F.6(4)-RIPSAT/PER/98-99/93-98 dated 18.04.2023(Annexure-11 supra); and Order No.F/96/RIPSAT/ACCTTS/2023(Sub)/2267-73, dated 27.02.2023(Annexure-16 supra) and Memo No.1(46)/RIPSAT/ADM/2023 (LINKFILE)/77-84, dated 13.04.2023(Annexure-17 supra).

iii. Issue Rule calling upon the respondents to show cause as to why a Writ of Mandamus and/or in the nature thereof for mandating/directing the respondents to cancel/revoke/rescind the impugned Memo No.F.1(5)-Secy/Health(Misc.)/2022/437-442, dated 23.02.2023(Annexure 8 supra), Order No.F.1(46)-RIPSAT/ADM/98-99/Vol.III/2455-60, dated 17.03.2023(Annexure-10 supra), Memo NO.F.6(4)-RIPSAT/PER/98-99/93-98 dated 18.04.2023(Annexure-11 supra); and Order No.F/96/RIPSAT/ACCTTS/2023(Sub)/2267-73, dated 27.02.2023(Annexure-16supra) and Memo No.1(46)/RIPSAT/ADM/2023 (LINKFILE)/77-84, dated 13.04.2023(Annexure-17 supra), and direct the respondents to refund Rs.10,000/- which was deducted from the salary of bill of the petitioner.

iv. Pass an interim Order staying the operation/execution of impugned Memo no. No.F.1(5)-Secy/Health(Misc.)/2022/437-442, dated 23.02.2023(Annexure 8 supra), Order No.F.1(46)-RIPSAT/ADM/98-99/Vol.III/2455-60, dated 17.03.2023(Annexure-10 supra), Memo NO.F.6(4)-RIPSAT/PER/98-99/93-98 dated 18.04.2023(Annexure-11 supra); and Order No.F/96/RIPSAT/ACCTTS/2023(Sub)/2267-73, dated 27.02.2023(Annexure-16 supra) and Memo No.1(46)/RIPSAT/ADM/2023 (LINKFILE)/77-84, dated 13.04.2023(Annexure-17 supra) till disposal of the writ petition.

v. After hearing the parties, be pleased to make the Rules absolute in terms of Prayer(i)(ii) and (iii) above;

vi. Any other relief(s) as to this Hon'ble High Court may deem fit and proper."

3. Mr. Lodh, learned counsel appearing for the petitioner submits that the Advisory Committee allotted classes to the petitioner herein on Saturday and Sunday @ Rs.700/- per class and the petitioner conducted the class. The said committee which allotted the classes to the petitioner was headed by the Principal RIPSAT and approved by the Government. However, the

respondents wrongly deducted the amount. The order of recovery is bad as prior to issuance of the order no show-cause notice was issued upon the petitioner. The respondents did not consider that the petitioner discharged his additional duties and took classes on Saturday and Sunday. Further, the petitioner was entitled to Government quarter in terms of the Allotment of Government Residence(General Pool at Agartala) Rules, 1999. As in the notification dated 08.03.2019, whereby the petitioner was re-appointed, it was specifically mentioned that order conditions of the services will be governed by relevant Rules and order, and he is entitled to Government Quarters during his re-employment.

4. On the other hand, Mr. D. Sharma, learned Addl. G.A., appearing for the State-respondents submits that the petitioner was part of the Advisory Committee that allotted the classes and it is not permissible for the Committee member to hold the said classes. Further, contractual employees after retirement cannot enjoy Government quarters and the impugned amount is recoverable from the petitioner herein.

5. Heard and perused the evidence on record.

6. To the query of the Court that whether there is a rule in which it is stated that a person who is part of the Advisory Committee cannot take classes entrusted by the Committee, the learned Addl. G.A. could give any satisfactory answers or quote any rule to that effect. No show-cause notice was issued for

recovery of the amount. Further, the Government after the retirement of the petitioner did not issue any notice to the petitioner to vacate the quarter/premises and handover the same within the stipulated time. As such this Court is of the view the action of the respondents herein suffers from the principle of *audi alteram partem*.

7.(a) Accordingly, in so far as the recovery of Rs.700/- per class is concerned, the amount which has been deducted shall be reimbursed to the petitioner herein by the respondents within a period of 3(three) months from the date of receipt of the copy of this order.

7.(b) With regard to the dues against the occupied quarter, license fees, and water charges, it is open for the respondents to issue a show cause notice upon the petitioner herein with regard to the said demand and obtain his explanation, and take a decision for recovery, if the petitioner is found liable to pay.

8. With the above observation and direction, this present is disposed of. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

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SUHANJIT
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