

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.150 of 2021

Smt. Tandra Debbarma,
w/o- Sri Santanu Debbarma,
R/o- Sankar Chowmuhani, Krshnanagar,
Agartala, West Tripura

---Appellant(s)

Versus

1. The State of Tripura

To be represented by the Principal Secretary,
Department of Education(School),
Govt. of Tripura, Agartala,
New Secretariat Building, Kunjaban,
P.S- New Capital Complex, Agartala,
West Tripura, Pin 799010

2. The Chief Secretary,

Govt. of Tripura (Appellate Authority),
New Secretariat Building, Kunjaban,
P.S- New Capital Complex, Agartala,
West Tripura, Pin 799010

3. The Addl. Secretary, Education (School) Department,

Govt. of Tripura, New Secretariat Building,
Kunjaban, P.S- New Capital Complex, Agartala,
West Tripura, Pin 799010

4. The Director,

Directorate of Secondary Education (Siksha Bhavan),
Govt. of Tripura, Office Lane, Agartala,
West Tripura, Pin 799001

5. The District Education Officer,

West District Zonal Office,
O/o the Education (School) Department,
Govt. of Tripura, Kunjaban, Agartala,
West Tripura, Pin 799006

6. Tripura Public Service Commission,

To be represented by its Secretary,
TPSC, Agartala, West Tripura, Pin-799001

---Respondent(s)

For the Appellant(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. Samarjit Bhattacharjee, Advocate Mr. K. Nath, Advocate
For the Respondent(s)	:	Mr. M. Debbarma, Addl. G.A. Mr. Raju Datta, Advocate
Date of hearing	:	19.04.2023
Date of delivery of Judgment & Order	:	27.04.2023
Whether fit for reporting	:	Yes

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH

JUDGMENT & ORDER

(Arindam Lodh, J.)

Impugment is the order dated 8th April, 2021, passed by learned Single Judge in WP(C) No.265 of 2021, whereby the writ petitioner being failed in her challenge against the imposition of minor penalty upon her by the Disciplinary Authority has preferred the present intra-court appeal before this Court.

2. Singular focus in the present case is whether a Disciplinary Authority, acting within the ambit of Rule 16 of the Central Civil Services(Classification, Control & Appeal) Rules, 1965[for short, *CCS (CC&A) Rules*], which prescribes the procedure for imposing minor penalties, is obligated to hold an inquiry in the manner laid down in case of imposition of major penalties.

3. The facts, as narrated by the learned Single Judge, may be reproduced here-under:-

“Petitioner is a Headmistress of a Government school. She was visited with the charge sheet under memorandum dated 4th February, 2020 in which it was alleged that while serving as a Headmistress at Hariganga Girls High School which had merged with Bodhjung Girls High School, she failed to discharge her duties and responsibilities as a head of the institution, which resulted into 100% failure of the students in Madhyamik Examination, 2019 which was conducted by Tripura Board of Secondary Education(TBSE). It was alleged that for such poor performance of the school students the petitioner cannot deny her lack of sincerity. On account of lapse on her part of not following the action plan issued by the Government such consequences had followed.

The petitioner filed a reply to the said charges under letter dated 1st April, 2020. She defended her position by pointing out that almost all students in the school were tribal students coming from remote areas and villages of the State. They were familiar with their mother tongue of Kokbarak. She had undertaken several measures to impart proper education to them. Under the circumstances, if there is a high failure rate of the students of the school, she cannot be blamed for the same.”

4. Since central issue revolves round Rule 16 of the CCS(CC&A) Rules, 1965, which is the bedrock of the powers of the Disciplinary Authority, while imposing minor penalties, it would be prudent to extract the relevant portion of it as under:

“16. Procedure for imposing minor penalties

(1) *Subject to the provisions of sub-rule (5) of rule 15, no order imposing on a Government servant any of the penalties specified in clause (i) to (iv) of rule 11 shall be made except after-*

- (a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;*
 - (b) holding an inquiry in the manner laid down in sub-rules (3) to (24) of rule 14, in every case in which the Disciplinary Authority is of the opinion that such inquiry is necessary;*
 - (c) taking the representation, if any, submitted by the Government servant under Clause (a) and the record of inquiry, if any, held under Clause (b) into consideration;*
 - (d) consulting the Commission where such consultation is necessary. The Disciplinary Authority shall forward or cause to be forwarded a copy of the advice of the Commission to the Government servant, who shall be required to submit, if he so desires, his written representation or submission on the advice of the Commission, to the Disciplinary Authority within fifteen days; and*
 - (e) recording a finding on each imputation or misconduct or misbehavior.*
- (I-A) Notwithstanding anything contained in Clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government servant under Clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (24) of Rule 14,*

before making any order imposing on the Government servant any such penalty.

(2) The record of the proceedings in such cases shall include-

- (i) a copy of the intimation to the Government servant of the proposal to take action against him;*
- (ii) a copy of the statement of imputations of misconduct or misbehavior delivered to him;*
- (iii) his representation, if any;*
- (iv) the evidence produced during the inquiry;*
- (v) the advice of the Commission, if any;*
- (vi) representation, if any, of the Government servant on the advice of the Commission;*
- (vii) the findings on each imputation of misconduct or misbehavior; and*
- (viii) the orders on the case together with the reasons therefor;”.*

5. On close reading of the rules afore-extracted, the mandate of law is that no order, imposing any of the minor penalties, which are specified in clause (i) to (iv) of Rule 11 of the said rules, shall be made except after holding an inquiry, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary. It is, therefore, inescapable that the discretion and the power to decide whether any inquiry is necessary is vested with the disciplinary authority and it is up to them to decide whether such an inquiry is to be ordered, taking into account the various factual aspects as are presented in each case.

6. We have already indicated above, the specific contention of the writ petitioner/appellant is whether the Disciplinary Authority is

statutorily obligated to make an inquiry as contemplated under Rule 16(1)(b) quoted here-in-above. This, in effect, is the substratum of the submissions made before us by the learned counsel appearing for the petitioner/appellant.

7. The facts, as are available from the pleadings on record, would show that the writ petitioner/appellant was failing to discharge her duties and responsibilities as a head of the institution which resulted into hundred percent failure of the students in Madhyamik Examination, 2019, conducted by TBSE. It was alleged that for such poor performance of the school students, the petitioner cannot deny her lack of insincerity. It was further alleged that the writ petitioner/appellant failed to follow the action plan issued by the Government. On being show-caused, the writ petitioner/appellant submitted her reply denying the charges levelled against her. In the reply, she stated that the students of the school were tribal students coming from interior areas and they were familiar to the tribal language, viz. “Kokborok”. She being the Headmistress of the school had undertaken adequate measures to impart proper education to the students and for their failure, she could not be blamed.

8. However, the disciplinary authority had passed the impugned order dated 9th December, 2020 imposing minor penalty of withholding of one increment for a period of one year without cumulative effect. The writ petitioner/appellant had preferred statutory appeal before the appellate authority challenging the said impugned order of penalty. After

consideration, the appellate authority dismissed the appeal. Challenging the order of penalty, the writ petitioner/appellant filed the writ petition before this Court.

9. Learned Single Judge after hearing the petition on merit, which were canvassed by learned counsel appearing for the parties held that the disciplinary authority had not committed any error of law in passing the impugned order of penalty and his action could not be said to have been passed in contravention to Rule 16 of the CCS (CC&A) Rules.

10. We have heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing on behalf of the appellant/writ petitioner and Mr. M. Debbarma, learned Addl. G.A. appearing for the State-respondents.

11. Facts as projected by learned Single Judge being extracted here-in-above are undisputed. The writ petitioner/appellant admitting the fact that 100% of the students failed in Madhyamik examination, she tried to escape from her responsibility on the ground that the students belonged to tribal community and were unaware of language other than *Kokborok*, which is their mother tongue and thus sought to be excused with an undertaking that system of imparting education would be improved in the school.

12. In the above background facts, Mr. Roy Barman, learned senior counsel criticizing the merits of the impugned order imposing minor penalty *qua* the decision of the learned Single Judge, vehemently

argued that no penalty, be it minor or major could be imposed without conducting an inquiry as embodied in Rule 16(1)(b) of the CCS(CC & A) Rules. The primary submission urged by learned senior counsel is that Rule 16(1)(b) mandates the disciplinary authority to initiate and conduct departmental inquiry providing all reasonable opportunities to the delinquent employee before imposing any penalty. Non-compliance of this mandatory requirement offends well-established principles of natural justice and in such a situation, the penalty order being contrary to law is liable to be quashed. Rule 16(1)(b) having thus interpreted, according to learned senior counsel, in the context of the case, it was incumbent upon the disciplinary authority to have ordered an inquiry before imposing any punishment against the writ petitioner/appellant, and that not being done, led the impugned order of penalty imposed upon her bad in law calling for its interference by this Court.

13. Opposing the submission of Mr. Roy Barman, learned senior counsel, Mr. Debbarma, learned Addl. G.A. contended that the Court should not be swayed by wrong interpretation of Rule 16(1)(b) of CCS(CC&A) Rules as tried to be projected by learned senior counsel appearing for the writ petitioner/appellant. According to learned Addl. G.A., disciplinary authority under Rule 16(1)(a) of CCS(CC&A) Rules is vested with wide discretion to impose minor penalty without conducting full-fledged inquiry. Learned Addl. G.A. further tried to persuade us contending that the impugned order of penalty did not suffer from the vice

of arbitrary exercise of power, and the Disciplinary Authority proceeded in the manner the law contemplated.

14. Entire gamut of controversy as advanced by learned counsel appearing for the parties centres round in the interpretation of Rule 16 of the CCS(CC&A) Rules, along with its sub-rules. Though not argued, according to us, sub-rule (1-A) of Rule 16 also plays a sweeping role in the relevant field that would be taken care of later on in this judgment.

15. The cardinal rule for interpreting a provision is that every word must be given a meaning. The rationale for this principle is that a statute is not taken to use words without meaning. It is basically a process by which court seeks to ascertain the true meaning of the expression or word or phrase which is in question in any statute before the court and determine the actual legislative intention.

According to ***Salmond***:

“Interpretation and construction is the process by which the court seek to ascertain the meaning of the legislature through texts, the subject matter, the effect and consequences or the spirit and reason of law” (Salmond, Jurisprudence, 11th Edition, p.152).

16. In the process, we shall try to find out the meaning of the relevant words, the legislature employed in the scheme underlining Rule 16 of CCS(CC&A) Rules, and assign reasons for our satisfaction and conclusions.

17. On plain reading, the language and the words used in Rule 16(1)(a) of CCS(CC&A) Rules, it becomes aptly clear that the legislature intended to empower the disciplinary authority to impose minor punishment upon a delinquent employee with the contingency of issuing a show-cause notice indicating the imputations of misconduct or misbehaviour levelled against the employee and asking him/her to reply the same. Duty casts upon the employee concerned to come forward with a reply containing all materials in his/her defence to justify his/her innocence. On receipt, and on consideration of the merits of the reply, the disciplinary authority may impose minor penalty as contemplated under Rule 14 of CCS(CC&A) Rules without initiating a departmental inquiry.

18. According to us, the right of imposing minor penalty vested upon the disciplinary authority in the above situation is ingrained in Rule 16(1)(a) of CCS(CC&A) Rules, 1965 itself.

19. Now, coming to the question impelled on us with vehemence by learned senior counsel for the petitioner that Rule 16(1)(b) of CCS(CC&A) Rules mandates the disciplinary authority to initiate inquiry irrespective of the nature of punishment, we find that sub-rule (1-A) of Rule 16 of CCS(CC&A) Rules comes as an aid to interpret Rule 16(1)(b). Sub-rule (1-A) reads as under:

“(1-A) Notwithstanding anything contained in Clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government servant under Clause (a) of that sub-rule, to withhold increments of pay and

such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (24) of Rule 14, before making any order imposing on the Government servant any such penalty.”

20. By way of insertion of the above quoted sub-rule vide G.I., M.H.A., Noti. No.7/3/67-Ests.(A) dated 20th April, 1968, the legislature further intended to clarify Rule 16(1) along with its sub-rules. On plain reading of sub-rule (1-A) it becomes obvious that in the case of a minor penalty which is likely to affect adversely the amount of pension payable to the Government Servant or when increments of pay are ordered to be withheld for a period exceeding three years or when increments of pay are ordered to be withheld with cumulative effect for any period, an inquiry shall be held in the manner laid down in Rule 14, before making any order imposing penalty on the Government Servant.

21. Again, on scrupulous reading of sub-rule (1-A) conjointly with Rule 16(1)(b), the legislature made a distinction in the nature of imposing punishment having regard to the circumstances of the imputations of misconduct or misbehaviour levelled against the Government Servant. It is apparent that under sub-rule (1-A), the disciplinary authority is obligated to conduct an inquiry, while under Rule 16(1)(b), the disciplinary authority is vested with the power of applying

his discretion whether in a given circumstance a full-fledged inquiry is necessary or not. In other words, Rule 16(1)(b) provides that in every case where the disciplinary authority is of the opinion that the inquiry under Rule 14 is required to be held, then, such an inquiry must be held before imposing the penalty.

22. Therefore, we are not in agreement with the learned senior counsel appearing for the appellant/writ petitioner that Rule 16(1)(b) mandates the disciplinary authority to hold inquiry in every case irrespective of the nature of penalty to be proposed by the disciplinary authority.

23. To reiterate, under sub-rule (1-A), the legislature classified the nature and character of types of minor penalties. The penalty which has an effect to adversely affect the amount of pension to be drawn by the delinquent officer has been treated as a separate class who is ordained to be treated in a different manner.

24. In the light of above interpretation, according to us, in cases of imposition of minor penalties, which come within the purview of sub-rule (1-A), the disciplinary authority is obligated to conduct an inquiry, which is not required to do so in the case of a minor penalty without such repercussions as embodied in sub-rule (1-A).

25. In view of above, and the way the Rule 16(1)(b) is phrased, we can easily infer that if the disciplinary authority forms an opinion after looking into the various facets involved in the imputations of misconduct,

that such an inquiry is not required, he is statutorily empowered to impose a minor penalty, save those postulated in sub-rule (1-A) afore-extracted, without causing any inquiry at all.

26. At this juncture, it would not be out of context to refer different Government of India's orders to address the present controversy as regards the application of Rule 16(1)(b) in imposing minor penalty by the disciplinary authority, which may be reproduced here-in-below:-

GOVERNMENT OF INDIA'S ORDER

I. "Holding an enquiry in minor penalty proceedings.-Minor Penalty proceedings are initiated under Rule 16(1)(a) of the C.C.S.(C.C. & A.) Rules, 1965, by informing the Government Servant concerned in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal. On receipt of the representation of the Government Servant concerned the disciplinary authority may record his findings on each imputation of misconduct or misbehavior or decide to hold an oral inquiry as provided In Rule 16(1)(b). Holding of the oral inquiry under Rule 16(1)(b) is optional, i.e., entirely according to the discretion of the disciplinary authority.

If, however, the disciplinary authority decides that an oral inquiry is necessary, such an inquiry is to be held in the manner laid down in sub-rules (3) to (23) of Rule 14. Sub-rule (3) of Rule 14 provides that the disciplinary authority shall draw up or cause to be drawn up---

- (i) *the substance of the imputation of misconduct or misbehavior into definite and distinct article of charges;*
- (ii) *a statement of the imputation of misconduct or misbehavior in support of each articles of charge, which shall contain---*
 - (a) *a statement of all relevant facts including any admission or confession made by the Government Servant;*
 - (b) *a list of documents by which and list of witnesses by whom, the articles of charges are proposed to be sustained.*

Under sub-rule (4) of Rule 14, the above documents have to be delivered to the delinquent Government Servant to enable him to submit his written statement of defence.

It is now confirmed in consultation with the Ministry of Law that in such cases a formal charge-sheet, as required in the manner laid down in sub-rules (3) and (4) of Rules 14 of the C.C.S. (C.C. & A.) Rules, 1965, should be issued to the Government Servant concerned. [Central Vigilance Commission, O.M. No. 4/3/71-R, dated 30th December, 1972].

II. Holding of inquiry when requested by the delinquent-Instructions.-

The staff-side of the Committee of the National Council (JCM) set-up to consider revision of C.C.S. (C.C. & A.) Rules, 1965 had suggested that Rule 16(1) should be amended so as to provide for holding an inquiry even for imposition of minor penalty, if the accused employee requested for such an inquiry.

The above suggestion has been given a detailed consideration. Rule 16(1-A) of the C.C.S. (C.C. & A.) Rules, 1965 provides for the holding of an inquiry even when a minor penalty is to be imposed in the circumstance indicated therein. In other cases, where a minor penalty is to be imposed, Rule 16(1) leaves it to the discretion of disciplinary authority to decide whether an inquiry

should be held or not. The implication of this rule is that on receipt of representation of Government Servant concerned on the imputations of misconduct or misbehavior communicated to him, the disciplinary authority should apply its mind to all facts and circumstances and the reasons urged in the representation for holding a detailed inquiry and form an opinion whether an inquiry is necessary or not. In a case where a delinquent Government Servant has asked for inspection of certain documents and cross-examination of the prosecution witnesses, the disciplinary authority should naturally apply its mind more closely to the request and should not reject the request solely on the ground that an inquiry is not mandatory. If the records indicate that, notwithstanding the points urged by the Government Servant, the disciplinary authority could, after due consideration, come to the conclusion that an inquiry is not necessary, it should say so in writing indicating its reasons, instead of rejecting the request for holding inquiry summarily without any indication that it has applied its mind to the request as such an action could be construed as denial of natural justice. [G.I., Dept. of Per. & Trg., O.M. No. 11012/18/85-Est. (A), dated 28th October, 1985]”

27. The epitome of the above Government of India's orders is that holding of an inquiry under Rule 16(1)(b) is optional, and to the discretion of the disciplinary authority. However, the disciplinary authority is obligated to conduct an inquiry if he decides to impose minor penalty in a situation indicated under sub-rule (1-A) of Rule 16 of the CCS(CC&A) Rules.

28. Considering the subject of present controversy, we are illuminated by a judgment of the Hon'ble Supreme Court passed in **Food**

Corporation of India, Hyderabad & Ors. Vs. A. Prahalada Rao & Anr., reported in (2001) 1 SCC 165, where dealing with similar and identical issues, it was held that: [scc.p.168, para 5]

“5. In our view, on the basis of the allegation that Food Corporation of India is misusing its power of imposing minor penalties, the Regulation cannot be interpreted contrary to its language. Regulation 60(1)(b) mandates the disciplinary authority to form its opinion whether it is necessary to hold inquiry in a particular case or not. But that would not mean that in all cases where an employee disputes his liability, a full-fledged inquiry should be held. Otherwise, the entire purpose of incorporating summary procedure for imposing minor penalties would be frustrated. If the discretion given under Regulation 60(1)(b) is misused or is exercised in an arbitrary manner, it is open to the employee to challenge the same before the appropriate forum. It is for the disciplinary authority to decide whether regular departmental enquiry as contemplated under Regulation 58 for imposing major penalty should be followed or not. This discretion cannot be curtailed by interpretation which is contrary to the language used. Further, Regulation 60(2) itself provides that in a case if it is proposed to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of retirement benefits payable to an employee and in such other cases as mentioned therein, the disciplinary authority shall hold inquiry in the manner laid down in Regulation 58 before making any order imposing any such penalty. Hence, it is apparent that the High Court erroneously interpreted the Regulation by holding that once the employee denies the charge, it is incumbent upon the authority to conduct inquiry contemplated for imposing major penalty. It also erred in

holding that where an employee denies that loss is caused to the Corporation either by his negligence or breach of order, such inquiry should be held. It is settled law that court's power of judicial review in such cases is limited and court can interfere where the authority held the inquiry proceedings in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry and imposing punishment or where the conclusion or finding reached by the disciplinary authority is based on no evidence or is such that no reasonable person would have ever reached. As per the Regulation, holding of regular departmental enquiry is a discretionary power of the disciplinary authority which is to be exercised by considering the facts of each case and if it is misused or used arbitrarily, it would be subject to judicial review."

29. The proposition of law is thus very clear. The rigor of the rule is that the disciplinary authority shall order an inquiry, if he forms an opinion, such inquiry is warranted. This discretion vested upon the disciplinary authority is manifest in the Government of India's orders quoted here-in-above. Only in the cases where the Government employee denies the allegations and seeks that witnesses be allowed to be examined or documents be allowed to be scrutinized, then the disciplinary authority, though not enjoined to order an inquiry automatically, is but obligated to consider it more closely and would come to a conclusion where such an inquiry necessitates.

30. Most interestingly and significant too, that even going through the orders issued by the Government of India as quoted here-in-

above, it is not obligatory on the part of the disciplinary authority to make an order of inquiry every time an employee seeks to inspect the document/materials or cross-examination of the witnesses, but it is still open to the disciplinary authority to consider the issue as to whether an inquiry is necessary to be held and if the disciplinary authority thinks otherwise, he is still vested with the authority to reject the request and go on with the imposition of the punishment.

31. The arguments of Mr. Roy Barman, learned senior counsel appearing on behalf of the writ petitioner/appellant that whenever a charged officer requests for an inquiry or submits an application for inspection or examination of documents, it would be obligatory on the part of the disciplinary authority to order a full-fledged inquiry is, in our considered view, completely misdirected being misconstrued the relevant rules afore-discussed. This is because the words employed in clause (b) of sub-rule (1) of Rule 16 make it aptly clear that before passing an order of holding inquiry in a given case the disciplinary authority has to form a definite opinion that circumstances of the case require full-fledged inquiry. Added to it, we find no difference in the opinion of the Government of India that Rule 16(1)(b) vests the disciplinary authority with the discretion to decide on the requirement of an inquiry one way or the other. It only cautions the disciplinary authority to be more circumspect to assess the circumstances of a particular case. In ***Food Corporation of India(supra)*** the Supreme Court categorically held that it

is upto the disciplinary authority to take a decision on the requirement of an inquiry and would depend on the circumstances of each individual case.

32. True it is, the discretion of the disciplinary authority has to be exercised judiciously and should not suffer from any arbitrariness. Once the decision is taken not to hold inquiry the delinquent employee has the right to challenge such decision by initiating an appropriate proceeding before the courts of law and it would be upto the courts to decide whether the disciplinary authority had exercised his discretion correctly and prudently in terms of the established principles of law.

33. As we said earlier, in the instant case, the disciplinary authority issued notice upon the writ petitioner/appellant mentioning the imputations of misconduct. In reply to the show-cause notice, the writ petitioner/appellant submitted representation where she sought to be excused with an assurance to improve the quality of education in the school. The disciplinary authority on receipt of the representation dated 22.07.2019 applied his mind after consideration of the entire circumstances and the imputations made against her, and thereafter, the Secretary to the Government of Tripura, Education(School) Department vide Memo. dated 04.02.2020 initiated inquiry under Rule 16 of the CCS(CC&A) Rules, 1965 against the writ petitioner/appellant. The statement of imputations of misconduct is as under:

“That, Smt. Tanmdra(sic) Debbarma, while serving as Headmistress at Hariganga Girls H.S. School, merged with Bodhjung Girls H.S. School, Banamalipur, Agartala, West Tripura failed to discharge her duties as well as responsibilities being head of the Institution resulting in unpleasant incident of 100% failure in the Madhyamik Examination, 2019 under Tripura Board of Secondary Education, for which Smt. Debbarma, Headmistress cannot deny her lack of sincerity. Moreover, there is a lapse on the part of the said Smt. Debbarma, HM for not following the action plan under memorandum No. F.11(8-10B)-SE/SSA/ 2015/1058-87, dated 08.12.2015, for which unpleasant incident of 100% failure in the Madhyamik Examination for the year 2019 took place.

The aforesaid charge against the said Smt. Debbarma, Headmistress is prima facie established from the preliminary enquiry report vide No. F.57(12)-EDN(W)/Gen/TBSE/2019/21822, dated 27.11.2019 submitted by District Education Officer, West District Zonal Office, Kunjaban, Agartala.

The aforesaid lapse on the part of Smt. Tandra Debbarma, headmistress violates Rule-3(1) of the TCS (Conduct) Rules, 1988.”

34. An inquiry was held and on the basis of the inquiry report dated 27.11.2019 the writ petitioner/appellant was served memorandum of charge-sheet vide communication dated 04.02.2020. The writ petitioner/appellant on receipt of the memorandum dated 04.02.2020 issued by OSD, Directorate of Secondary Education, Tripura had requested the competent authority to supply the documents for making effective representation. On consideration of the said reply, the

disciplinary authority had issued a Memo. dated 17.03.2020 where the writ petitioner/appellant was given another opportunity to submit reply within 10(ten) days from the date of receipt of the said Memo. with an observation that failure to submit reply would entail the authority concerned to take a decision *ex parte*. The writ petitioner/appellant submitted her reply dated 01.04.2020 addressed to the Additional Secretary, Education(School) Department, Government of Tripura. Thereafter, on consideration of the said reply dated 01.04.2020, the disciplinary authority had passed order dated 09.12.2020 imposing minor penalty withholding of 1(one) increment for a period of one year without cumulative effect.

35. From the aforesaid facts, in our opinion, the writ petitioner/appellant was given reasonable opportunity to defend her case and on consideration of all factors, the disciplinary authority imposed the aforesaid minor penalty, which was upheld by the appellate authority. Furnishing of copies of the inquiry report as demanded by the writ petitioner/appellant, in her representation dated 14.02.2020(*Annexure-5* to the writ petition), according to us, would be an empty formality because it was established fact that all the students appearing in Madhyamik Examination, 2019 had failed and writ petitioner/appellant in her reply dated 22.07.2019 that was in response to the show-cause notice vide Memo. dated 26.06.2019 had submitted all the relevant documents in support of her denial to the imputations of misconduct. In this situation,

decision of the disciplinary authority not to make an order of inquiry, in our opinion, is not inconsistent to the scheme of Rule 16 of the CCS(CC&A) Rules and such decision of the disciplinary authority is valid in the eye of law as discussed in the preceding paragraphs.

36. As a sequel, we find no error of law in the order passed by the learned Single Judge that it is not the case that such imposition of penalty of withholding of one increment for one year is likely to adversely affect her pension and the nature of penalty does not obligate the disciplinary authority to conduct a full-fledged inquiry.

37. For the reasons stated here-in-above and the law on the subject in issue being analyzed afore, the order dated 08.04.2021 passed by the learned Single Judge does not call for interference.

Accordingly, the instant writ appeal stands dismissed. However, there shall be no order as to costs.

(ARINDAM LODH, J)

(APARESH KUMAR SINGH, CJ)