

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 311/2023

Sri Ashish Kanti Saha

----Petitioner(s)

Versus

The Tripura Khadi and Village Industries Board and anr. ----Respondent(s)

For Petitioner(s)	:	Mr. CS Sinha, Advocate
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For Respondent(s)	:	Mr. AK Pal, Advocate
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HON'BLE MR. JUSTICE ARINDAM LODH
Order

01/07/2023

Heard Mr. CS Sinha, learned counsel appearing for the petitioner.

Also heard Mr. AK Pal, learned counsel appearing for the respondents.

The petitioner, by means of filing the present writ petition has challenged the order of punishment dated 26.08.2022 imposed upon him by the respondents. The punishment is as under:

“Reduction to a lower stage in the time scale of pay for a period of 3 (three) years and withholding of 5 (five) increments without cumulative effect” which will be effective from 2016 onwards (Annexure 3 to the writ petition).

Mr. CS Sinha, learned counsel for the petitioner has drawn my attention to an order passed by this court in connection with a writ petition wherein this court had set-aside the impugned order of punishment imposed upon the petitioner on earlier occasion. The said order of punishment was set-aside for the reason that it was a non-speaking order and remitted the matter back to the respondents. Thereafter, the disciplinary authority had dealt with the matter afresh and

passed the impugned memorandum dated 26.08.2022 imposing the above quoted punishment upon the petitioner. However, the petitioner, being aggrieved of the said order of punishment dated 26.08.2022 has approached this court seeking interference of this court, to exercise its power of judicial review, as vested upon it under Article 226 of the Constitution of India. Mr. Sinha, learned counsel appearing on behalf of the petitioner at the very outset has submitted that it is a case of disproportionate punishment. Mr. Sinha, learned counsel has not urged on any other point.

I have perused the memorandum dated 26.08.2022 whereby and whereunder the respondents had passed the order of punishment..

It is evident that the disciplinary authority had taken into consideration all the points raised by the petitioner in his representation challenging the findings surfaced in the inquiry report. The disciplinary authority while passing the impugned order of punishment had appreciated the evidences let in by the prosecution witnesses, and also considered the relevant documents. It is no longer *res integra* that exercise of power of judicial review under Article 226 of the Constitution of India, in this nature of case, is very much limited. This court in exercise of its jurisdiction under Article 226 of the Constitution of India can only interfere with the findings of the disciplinary authority if there is procedural infirmity leading to violation of natural justice, and if the appreciation of evidence is found to be perverse and based on no evidence. Furthermore, to

appreciate the evidence strict proof is not necessary. The evidence recorded in a disciplinary proceeding would be appreciated on the basis of preponderance of probability.

I have perused the discussion and appreciation of evidence made by the disciplinary authority while passing the impugned order of punishment vide memorandum dated 26.08.2022 (Annexure 3 to the writ petition). I find that the misconduct committed by the delinquent employee i.e. the petitioner herein, is grave in nature and the appreciation of evidence recorded during the course of proceeding cannot be said to be perverse.

I have also gone through the Article of Charges.

Having considered all the aspects, I do not find any ground to interfere with the order of punishment, as imposed by the disciplinary authority upon the petitioner.

Accordingly, the instant writ petition stands dismissed.

JUDGE

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