

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.434 OF 2023**

Sri Mridul Das

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

Vs.

The State of Tripura and ors.

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

For the Petitioner(s) : Mr. A.K. Pal, Advocate.
Mr. D.C. Roy, Advocate.
Mr. T.K. Bhattacharjee, Advocate.

For the Respondent(s) : Mr. K. De. Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 25.09.2023.

Whether fit for reporting : YES.

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

This present petition has been filed under Article 226, 14 and 16 of the Constitution of India seeking the following reliefs:-

*"i. Admit the writ petition of the petitioner;
ii. Issue notice upon the respondents;
iii. Call for the relevant records from the custody of
the respondents;*

AND

iv. After hearing the parties, Your Lordship would be kind enough to set aside/quash/cancel the department proceeding vide No.D.P. 05 of 2022 which is initiated against the petitioner and the petitioner also prayed before Your Lordship for set aside/quash/cancel the inquiry report, provisional punishment, final punishment order dated 30.08.2022 and order of Appellate Authority dated 19.11.2022 and the petitioner also prayed before the Hon'ble High Court to pass an order directing the respondents to reinstate the petitioner in his service for fair ends of justice."

2. The brief fact of this case is that the petitioner herein is a dismissed ex-government employee of the respondents' i.e.

Home Department Govt. of Tripura. The petitioner herein was a water carrier under the respondent Commandant No.6. On 13.07.2022, respondent No.6 issued a memorandum along article of charge alleging *inter alia* that the petitioner on 05.05.2022 shouted slang language in an intoxicated condition in front of Barrack No.2 and disturbed other inmates and also abused with slang language to Sri Prasun Kanti Tripura, A.C. Adjutant TSR 6th Battalion. A departmental proceeding was conducted against the petitioner and vide order dated 30.08.2022, the petitioner was dismissed from his service. The petitioner then filed an appeal on 03.09.2022 to the Appellate Authority but the Appellate Authority did not take any decision. Then vide order dated 17.11.2022 this Hon'ble Court directed the respondents to take a decision on the appeal within 6(six) weeks from the date of the Judgment and accordingly, then the Appellate Authority on 19.11.2022 dismissed the said appeal of the petitioner herein. Hence this petition seeking the above-mentioned reliefs.

3. Heard Mr. A.K. Pal, learned counsel appearing for the petitioner as well as Mr. K. De, learned counsel appearing for the State-respondents.

4. Mr. Pal, learned counsel appearing for the petitioner submits that the punishment imposed upon his client is disproportionate to the alleged offence committed by the petitioner herein. Further, his client was not given a proper chance to

represent himself in the proceeding conducted before the respondents.

5. On the other hand, Mr. K. De, learned Addl. G.A. appearing for the State-respondents submits that the petitioner was on unauthorized leave for a long period of time and he is also a habitual defaulter.

6. Heard and perused the evidence on record.

7. To this Court, Articles I and II of the charges framed against the petitioner herein in the departmental proceeding only revolve around the consumption of alcohol in the barrack, raising his voice, and also abusing one of the officers on the campus.

8. In so far as the other allegation with regard to overstay and the number of times the petitioner has misbehaved on the campus is concerned, the same has not been framed as Article. Since the charges were not framed and no inquiry was conducted, on those lines, this Court feels that punishment of dismissal from service on the charge of consumption of alcohol under Articles I and II is excessive and the same can be treated as minor misconduct and accordingly, suitable punishment can be given

9. In view of the same, this present writ petition is disposed of, setting aside the impugned final order of dismissal dated 30.08.2022, remanding the matter to the concerned authorities/respondents for reconsideration only on the point of

misconduct for imposing the appropriate punishment. This order be passed as expeditiously as possible preferably within the period of 2(two) months from the date of receipt of the copy of this Order by the respondents. As a consequential, order in appeal also stands set aside.

10. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

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SUHANJIT
SINGHA

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SUHANJIT SINGHA
Date: 2023.09.27
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