

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.99/2023

Sri Ramapati Chakraborty

..... Appellant(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

Along with

W.A. No.121/2023

Sri Debabrata Paul

..... Appellant(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Appellant(s)

: Mr. Somik Deb, Sr. Advocate,
Mr. P. Chakraborty, Advocate.

For Respondent(s)

: Mr. Mangal Debbarma, Addl. G.A.

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

Order

13/12/2023

Both the writ petitioners have preferred the present appeals being aggrieved by the orders dated 20.06.2023 passed in Review Petition No.31 of 2023 and Review Petition No.32 of 2023 respectively. Both the Review Petitions arose from two writ petitions being WP(C) No.69 of 2023 and WP(C) No.68 of 2023 respectively in the case of the present appellants. Similar orders were passed on 17.03.2023 in both the writ petitions by the learned Writ Court which is to the following effect:

"Heard both sides and perused the evidence on records. Impugned memorandum dated 21.09.2022 is set aside and without expressing any opinion on the merits, the matter is remanded back to respondents No.4 and 5 to consider the case of the petitioner in its entirety and to pass a speaking order with regard to extending the benefits to the petitioner herein on par with the said employee i.e. pro-

forma respondent herein which the petitioner has referred expressing that the respondents have acted in the manner of discrimination. Respondents are directed to consider the case of the petitioner within a period of 2(two) months from the date of receipt of the copy of this order. The petitioner is also at liberty to file any such documents in support of his claims before the respondents if so advised.

With the above observation and direction, this instant writ petition stands disposed of. Stay if any stands vacated, pending application(s), if any also stands closed."

Effectively, the impugned memorandum dated 21.09.2022 was set aside and the matter was remitted to respondents No.4 and 5 who are the same respondents No.4 and 5 in the instant writ appeals. Thereafter, review petitions were preferred against both the orders by the respondent-State of Tripura numbered as Review Petition No.31 of 2023 and Review Petition No.32 of 2023. The review petitions were allowed without service of notice to the writ petitioners who are the appellants herein in the following manner:

"In view of the above, the present review petition is disposed of giving liberty to the respondents (the review petitioners herein) to take a decision once the matter is decided by the Hon'ble Supreme Court of India. And in view of the submissions made by the learned Addl. G.A., the said proceeding dated 21.9.2022 which has been set aside by this Court has no bearing of the facts in the case.

The respondents (review petitioners herein) shall communicate the same to the petitioners in enabling them to take steps, if so advised, before the Hon'ble Supreme Court."

Being aggrieved, both the writ petitioners are in appeal before us. The main ground to assail the orders passed in review petitions is lack of proper notice and violation of Order XLVII Rule 4(2) of the CPC which applies to writ proceedings also.

It is not disputed by Mr. Mangal Debbarma, learned Counsel for the State, that the review petitions were decided without notice to the writ petitioners. Apart from that, Mr. Somik Deb, learned Senior counsel assisted

by Mr. P. Chakraborty, learned counsel appearing for the appellants, submits that there are good grounds on merits for the writ petitioners to oppose the prayer for review.

We do not want to get into the correctness of the contentions raised by the parties on merits. However, since the review petitions were decided without notice and hearing to the writ petitioners who had got a judgment in their favour following the ratio laid down by the Apex Court in the case of *Johra & Ors Vs. State of Haryana & Ors.* reported in (2019) 2 SCC 324 we deem it proper to reverse the impugned orders dated 20.06.2023 passed in Review Petition No.31 of 2023 and Review Petition No.32 of 2023 respectively and remand the matter to the Review Court for fresh consideration in accordance with law after due opportunity to the parties.

The review petitions are consequently restored to their original files and be listed before the appropriate Bench.

The writ appeals stand disposed of.

Pending application(s), if any, shall also stand disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ

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