

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.652 OF 2022**

Sri Babul Debbarma

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

Vs.

The State of Tripura and ors.

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

For the Petitioner(s) : Mr. D. Sarkar, Advocate.
Mr. M. Saha, Advocate.

For the Respondent(s) : None.

Date of hearing and delivery of
Judgment & Order : 19.07.2023

Whether fit for reporting : YES/NO.

HON'BLE MR JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

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

- " a. Issue notice upon the respondents.
b. Call for the relevant records.
c. Admit the petition.

d. Issue rule calling upon the respondents to show cause as to why the writ of mandamus or any other writ shall not be issued upon the respondents to cancel/quash and set aside the final punishment order dated 23.12.2010 passed by Sri Suresh Kalai, TPS Grade-1, Commandant, 4th Bn, TSR being the Disciplinary Authority whereby Sri Babul Debbarma No.06111278 EF(W/C) of B-COY, 4th Bn. TSR was terminated/dismissed from service with immediate effect and struck off strength of this unit with effect from 20.12.2010 which was received under RTI by the petitioner on 16.09.2015.

e. Issue rule calling upon the respondents to show cause as to why the Writ of Mandamus or any other writ shall not be issued upon the respondents to cancel/quash and set aside the provisional punishment order against No.06111278 E/F(W/C) Babal Debbarma of 4th Bn. TSR on 28.11.2010.

f. Issue rule upon the respondents to show cause as to why the Writ of Mandamus or any other writ shall not be issued upon the respondents to cancel/quash and set aside the Article of charge vide memo No.F.05/tst-4/DP-GENL/B.D/09/3973 dated 28.05.2010 whereby a D.P. enquiry initiated

the petitioner Sri Babul Debbarma of B-COY, 4TH Bn. TSR under 14 of the CCS(CCA) Rules 1965 and Rule 12(1) of TSR Act, 1983.

G. And further be pleased to reinstate the petitioner in his original place of posting.

h. Or any other relief/reliefs as sought by the humble petitioner.”

2. Heard Mr. D. Sarkar, learned counsel assisted by Mr. M. Saha, learned counsel. None appears for the respondents.

3. Mr. Sarkar, learned counsel appearing for the petitioner submitted that the punishment of dismissal from service imposed upon the petitioner by the respondents is too harsh and urged this Court to reduce the punishment.

4. Heard and perused the evidence on record.

5. The impugned order dated 23.12.2010 has been challenged by way of writ proceeding in 04.08.2022 i.e. by way of filing this present writ petition. Prima facie this Court feels that there are laches on the part of the petitioner in preferring the present writ petition against the impugned order after 12 years.

6. Further, it is seen from the impugned order of punishment dated 23.12.2010, that despite giving opportunity to the petitioner, on more than one occasion to appear before the inquiry officer with relevant records, the petitioner failed to appear and make submission in his defense. Accordingly, for a period of 338 days, he was absent unauthorizedly, and since he has no defense, the final order was said to be passed. The petitioner even did not file any objection before the inquiry officer nor before the

concerned authority before passing of the final order of termination. The petitioner on 12.11.2015 made a request before the Director General of Police to consider his case for reduction of the punishment, but even in the said request letter, he has not discussed anything with regard to his medical record to say that on such date he was hospitalized and on that particular date he was discharged. In the absence of any such evidence, this Court is not prima facie inclined to interfere with the impugned final order of punishment. In so far as the application before the Director General of Police is concerned, it is not before this Court to go into the aspect.

7. Hence with the above observation, this impugned termination order dated 23.12.2010 is upheld and this present writ petition stands dismissed as being devoid of merit. As a sequel stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

RAJKUMAR
SUHANJIT
SINGHA

Digitally signed by
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SUHANJIT SINGHA
Date: 2023.07.25
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