

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 621 of 2023

Sri Uddhab Biswas

---Petitioner(s)

Versus

Union of India and 4 Others

---Respondent(s)

For Petitioner(s)	: Ms. N. Nandy, Advocate.
For Respondent(s)	: Mr. B. Majumder, Deputy SGI.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

04.10.2023.

Heard learned counsel for the parties.

This is an application under Article 226 of the Constitution of India seeking following reliefs:

- (a) *As to writ in the nature of mandamus directing the respondents to re-instate the petitioner in service, subsequent to his acquittal in case No-Special (POCSO) 16 of 2021 vide judgment dated 13.01.2022.*
- (b) *As to writ in the nature of certiorari quashing the show cause notice of termination No.Estt/SCN-Uddhab/145 BnBSF/2023/491-94 dated 12.09.2023 as wrongfully issued, subsequent to the acquittal of the petitioner in Case No.-Special (POCSO) 16 of 2021 vide judgment dated 13.01.2022.*
- (c) *As to why such other order/orders should not be passed so as to give full relief to the petitioner.*

It is the case of the petitioner that the petitioner was appointed in the post of Constable with effect from 15.11.2013 with the BSF. On July 2021, he was suspended from service, allegedly accused for molesting two girls. However, during the investigation following the FIR no evidence was found against the petitioner. The POCSO case filed was disposed vide judgment dated 13.01.2022 acquitting the petitioner. Meanwhile, one Sri Anuj Kumar, Head

Constable, BSF was found to have forced the complainants to make false statements against the petitioner and accordingly a Charge Sheet against him was made and he was tried before the BSF Court, who found him guilty and as a punishment reduced his rank. The petitioner was found "not guilty" of charges by the BSF as per the Offence Report but nevertheless received a Show Cause Notice of termination from the respondent No.4 granting him a month's time from 12.09.2023. Being aggrieved by such conduct of the respondents, the petitioner has filed this instant petition.

It appears to this court that the petitioner has not submitted any explanation to the show cause notice and he seems to have approached this court without submitting his explanation before the concerned respondents. After a bare perusal of the show cause notice, it surfaces that it is not conclusive in nature and it cannot be treated as final order. It also appears to this court that alternative remedy is also available to the petitioner for filing the explanation which is indicated in the show cause notice. Since the petitioner has not complied with required formality and straightaway approached this court filing the writ petition under Article 226 of the Constitution of India, this court has no hesitation to hold that the instant writ petition is not maintainable and is liable to be dismissed.

However, this court, considering the fact that the explanation time ends by 12.10.2023, directs the petitioner herein to submit his explanation before the concerned-respondents within a period of two weeks from today i.e. on or before 18.10.2023.

In view of the above, the writ petition is devoid of merits and is accordingly dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE



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