

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 643 of 2023

Sri Titu Sarkar

---Petitioner(s)

Versus

The State of Tripura and 3 Others

---Respondent(s)

For Petitioner(s)	: Mr. Samar Das, Advocate.
For Respondent(s)	: Mr. D. Sharma, Addl. GA.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

09.10.2023

Heard learned counsel for the parties.

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

- (i) *Admit this writ petition;*
- (ii) *Issue notice upon the respondents;*
- (iii) *Call for records relevant to the subject matter;*
- (iv) *After hearing be pleased to set aside/quash the Comprehensive Enquiry Report conducted in pursuance to the Ref.No.F.5(1-3882)-SE-E(DP)/2018/302 dated 31.05.2018 and the findings of the inquiry authority dated 30.03.2023 passed in Case No.02/INQ/CDI/EDN/2019;*
- (v) *After hearing be pleased to set aside/quash/setting aside the Memorandum No.F.5(1-3893)-SE-E(DP)/2018 dated 05.09.2018 and order File No.5(1-3893) SE-E(DP)/2018 dated 05.07.2023 whereby imposed a major penalty of compulsory retirement against the petitioner;and*
- (vi) *Directing the respondents or each of them to reinstate the petitioner in his service after setting aside/quash the order of compulsory retirement passed by respondent No.2 vide order dated 05.07.2023; &*
- (vii) *Also pass any other order or orders as your Honour may seem fit and proper regarding the facts and circumstances of the case.*

It is the case of the petitioner that the petitioner joined as an Assistant Teacher, Directorate of Secondary Education, Govt. of Tripura on 17.07.2012. On 29.05.2017, the wife of the petitioner namely Dhritisree Majumder submitted one complaint before the

respondent No.3 alleging that the petitioner solemnized second marriage with one Smt. Gouri Rani Bhowmik (Sarkar) while his first marriage with the said Dhritisree Majumder was still subsisting. Respondent No.2 directed to conduct a comprehensive enquiry and after enquiry Sri Panchapada Tripura, OS, IO, District Education Officer, Gomati District, Udaipur submitted his report. The said enquiry report was communicated to the respondent No.2. Thereafter, respondent No.2 proposes to hold an enquiry against the petitioner vide Memorandum No.F.5(1-3893)-SE-E(DP)/2018 dated 05.09.2018 for violating Rule-20 of the Tripura Civil Services (Conduct) Rules, 1988. Thereafter, inquiry was started before the Commissioner of Departmental Inquiries i.e. the respondent No.4 and the said inquiry was registered as No.Case 02/INQ/CDI/EDN/2019. Gouri Rani Bhowmik was also cited as PW SI No.4 and notice was duly served upon Gouri Rani Bhowmik for recording her deposition but she did not appear before the Commissioner of Departmental Inquiries. Therefore, the respondent No.4 vide order dated 22.02.2021 as passed in No.Case 01/INC/CDI/EDN/2019 closed the prosecution evidence. After hearing Inquiry Authority vide findings dated 30.03.2023 held that the petitioner is guilty for the sole Article of Charge No.1 and conclude the inquiry. Thereafter, on 05.07.2023 respondent No.2 vide order dated 05.07.2023 imposed a major penalty of "compulsory retirement" upon the petitioner following the findings of the Inquiring Authority. The petitioner never solemnized marriage with Gouri Rani Bhowmik and the said Marriage certificate was obtained by practicing fraud. On the day of marriage registration i.e. on 18.06.2015 petitioner was in duty at Purba Satnala Col. High School at Kanchanpur and the same is evident from the Teacher's Attendance Registrar. Being

aggrieved and dissatisfied with the order of compulsory retirement, the petitioner prefers this instant writ petition before this Court.

On perusal of the record it is found that the order dated 05.07.2023 issued by the respondents is not a detailed order. It only speaks that the representation dated 10.05.2023 has been examined and found not convincing and subsequently imposed a major penalty of "Compulsory retirement" on the petitioner.

In view of the above facts and circumstances and without any expressing any opinion on the merits of the case, the present case is remanded back to the respondents setting aside the order dated 05.07.2023. The respondents are further directed to pass a speaking order and communicate the same to the petitioner. Such action shall be taken by the respondents as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

In view of the above, the instant writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

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