

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 832 of 2021

Sri Bipul Ranjan De & 4 Ors.

----Petitioner

Versus

The State of Tripura & 4 Ors.

----Respondent

For Petitioner(s)	: Mr. Somik Deb, Sr. Adv. Mr. Koomar Chakraborty, Adv.
For Respondent(s)	: Mr. D. Bhattacharjee, GA Ms. N. C. Saha, Adv.
Date of hearing and delivery of judgment and Order	: 16.05.2023
Whether fit for reporting	: No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

This is a petition under Article 226 of the Constitution of India.

[2] The brief facts of the petitioners are that all of them are serving under the Tripura State Rifles. An inquiry was proposed against the petitioners on 19.05.2019. On the same facts and circumstances an FIR was lodged against the petitioners on 20.05.2019. Thereafter, on 23.06.2019, it was proposed to hold a fresh inquiry against the petitioners. On 30.07.2019m the petitioners were placed under suspension with immediate effect. On 21.08.2019, the inquiry officer had repulsed the request, made by the petitioners to supply additional documents. On 17.10.2019, the inquiry report was issued. On 22.10.2019 a Provisional Punishment order was issued. Pursuant thereto on 05.1.23019, the petitioners submitted their representation. On 25.11.2019 major penalty of dismissal from service was inflicted on to the petitioners. On 09.03.2020, the petitioners preferred Departmental Appeal. On 27.03.2020, the said appeal was dismissed. On 14.05.2020 & 15.05.2020, the petitioners preferred revision application. On 26.03.2021, the said revision application was dismissed.

[3] Being aggrieved thereby, the petitioners have approached this court seeking relief *inter-alia*.

- (i) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, for transmitting the records, lying with them, for rendering substantive and conscionable justice to the petitioners, and for quashing/setting aside the impugned inquiry report dated 17.10.2019, the impugned provisional punishment order dated 22.10.2019, the impugned final punishment order dated 25.11.2019 the impugned appellate order dated 27.03.2020 & the impugned revisional order dated 26.03.2021.
- (ii) Issue rule calling upon the respondents and each one of them, to show cause as to why a writ of mandamus and/or in the nature thereof, shall not be issued, for mandating/directing them to revoke/rescind the impugned inquiry report dated 17.10.2019, the impugned provisional punishment order dated 22.10.2019, the impugned final punishment order dated 25.11.2019, the impugned appellate order dated 27.03.2020 & the impugned revisional order dated 26.03.2021 and thereupon, exonerate the petitioners from all the liabilities of the case, marked as 12the Bn TSR(IR-VIII) DP No.01/19, thereby revoking the order of Dismissal passed against them, re-instate them in service, release the arrears of salary of the entire period when they were out of service.

[4] Heard Mr. Somik Deb, learned senior counsel assisted by Mr. Koomar Chakraborty, learned counsel appearing for the petitioner as well as Mr. D. Bhattacharjee, learned GA assisted by Ms. N.C. Saha, learned counsel appearing for the respondents.

[5] Having perused the entire records, it appears to this court that an enquiry was proposed initially on 19.05.2019 by the respondents against the petitioner. The preliminary inquiry report was rejected by the Revision Authority on 27.05.2019. Thereafter, the respondents had again proposed to hold a fresh inquiry against the petitioners on 23.06.2019. In due course of the inquiry, charges were framed against the petitioners issuing notices to them and subsequently all the petitioners herein were terminated from their service on 25.11.2019. To get justice, the petitioners further preferred departmental appeal and that too was dismissed by the order 27.03.2020

[6] It is pertinent to note that the entire case surrounds the action of taking cognizance by the concerned authority. It seems to this court that once the report was received, without expressing any cogent reason, straightaway the report has been rejected and fresh enquiry has been ordered by the respondents.

[7] This court is of the opinion that the authority may have ample power to reject the report and call for a fresh inquiry but proper reasons have to be assigned as order dated 05.07.1979 (Annexure-4 to the writ petition).

(9) Reasons for cancellation of original charge-sheet to be mentioned if for issuing a fresh charge-sheet – It is clarified that once the proceedings initiated under Rule 14 or Rule 16 of the CCS (CCA) Rules, 1965, are dropped, the Disciplinary Authorities would be debarred from initiating fresh proceedings against the Delinquent Officers unless the reasons for cancellation of the original charge-sheet or for dropping the proceedings are appropriately mentioned and it duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is, therefore, important that when the intention is to issue a subsequent fresh charge-sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such action and indicating the intention of issuing a subsequent charge-sheet appropriate to the nature of charges the same was based on.

[8] Since the letter dated 27.05.2019 (Annexure-E to the counter affidavit filed by the respondents No. 1 to 5) does not indicate any reason for rejecting the enquiry report and calling for fresh inquiry report, this court draws an inference that the concerned authority properly intended to obtain the report as desired by him against the petitioner. This is nothing else but an arbitrary power exercised by the respondents and since the entire proceedings are arising out of the said action, this court has no hesitation to say that the respondents have acted pre-meditated mind. Hence, the same is against the principle of natural justice and their action is nothing more than arbitrary which needs interference by this court. Accordingly, all the impugned orders as challenged in this writ petition are set aside. It is needless to mention here that the petitioners herein are entitled to all the consequential benefits. The respondents are directed to take such action preferably within a period of three months from the date of receipt of copy of this order.

[9] With the above observation and direction, this present writ petition stands allowed and thus disposed of. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE