

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 833 of 2021

Sri Pradip Roy

----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	: Yes/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 petitioner is that petitioner was serving under the Tripura State Rifles. An inquiry was proposed against the petitioner. On 21.05.2019, the petitioner was placed under suspension with immediate effect. An FIR was lodged against the petitioner on 28.05.2019. Thereafter, on 23.06.2019, on the same facts and circumstances, it was proposed to hold a fresh inquiry against the petitioner. On 17.10.2019 a provisional punishment order was issued. On 22.10.10.2019, a provisional punishment order was issued. Pursuant thereto, on 05.11.2019, the petitioner submitted his representation. On 25.11.2019, major penalty of dismissal from service was inflicted on to the petitioner. On 09.03.2020, the petitioner preferred Departmental Appeal. On 07.04.2020, the said appeal was dismissed. On 14.05.2020, the petitioner preferred a revision application. The said revision application was also dismissed on 26.03.2021.

[3] Being aggrieved thereby, the petitioner has 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 petitioner, 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 26.03.2020 & 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 07.04.2020 & the impugned revisional order dated 26.03.2021 and thereupon, exonerate the petitioner from all the liabilities of the case, marked as 12th Bn TSR(IR-VIII) DP No.03/19, thereby revoking the order of Dismissal passed against them, re-instate him in service, release the arrears of salary of the entire period when they were out of service.
- (iii) Issue rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Prohibition and/or in the nature thereof, shall not be issued, restraining/prohibiting them, from acting in any manner, in furtherance of 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 07.04.2020 & the impugned revisional order dated 26.03.2021.

[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 the petitioner has been terminated from his service on the allegation that he had assaulted his colleague namely Jagdish Prasad Chawra. The statement of Jagdish Prasad Chawra is reproduced herein under:

"Statement of No.01300546 Rfn(GD) Jagadish Prasad Chawra of 'Adm' Coy 12th DM TSR (IR-VIII) in C/W DP No.03/2019 of 12th Bn BR(IR-VIII)

Main No.03100546 Rfn (GD) Jagadish Prasad Chawra of "Adm" Coy 12th DM TSR (IR-VIII) aap ICE dwara Poocha jaane par batana chata hu ki mera statement year hai ki 11-05-2019 samay 1000 se 1030 baje ke lagbag main room main saw raha tha. Darwaza tadkar Hav-Kamal Paul Nk-Maheswar Das, NK-Satyabrata Sinha, Hav-Raju Dhar, Nb/Sub-Bipul Ranjan De, mere muhe ke upar kapada daal kar pitai kiya lathi danda rod se jaan leba hamla kiya. Marte marte main chillaya poocha inse kisilye pitai kar rahe ho. Phir Bipul Sahab ne jawab diya jaan se maar dega baagh jha dao se maro phir main daar kar room se bhar nikla chillane se koi bahar nahi aaya. Phir main M.T Gate Sentry E/F Tele Bahadur Silal uske pass chalagaya phir dubara ye log pichhe aaye Nb/Sub:-Bipul Ranjan De, Hav-Raju Dhar udar Bhi Pitai kiya lathi/danda maara dao marne ka jaan se maarne ka damki diya. Samne Nb/Sub Pradip Roy maine inke pao main jaake gira sahib mere ko kisliye maar rahe ho inhume bhi mere ko gali deya lath maara phir udar se main sentry ka samne se baach Kar office Gate ke taraf chala gaya. Udar main bahar gate ke samne tohota rukha main bahar gat ke samne to hota rukha jungle main bachau ke liye. Phir maine dekha yeh log office ke samne doondh raha hai muje. Phir udhar se main baach kar CRPF Camp main Chala gaya. Udhar sentory ke saath baathchit kiya aur unko baataya aur muje paani pilaya. Unko mera maarpith ke baare main baataya leking unhone,

audhar nahi gusaya phir udar se main wapis SDM Office side main dukanka brench mein subah 0530 udar hi baita raha, mere ko bahut dard ho raha tha. Haath main pao main pith main blood gir raha tha. Phir udar se 0600 baje ke karib main wapis room main aaya phir bhi subha ghum raha hai. Phir maine co sahib ko phone lagaya ¾ baar nahi receive kiya co Sahab ne. Phir mere dard ho raha tha main dara hua tha eicdumse main chala gaya Government hospital Teliamura mainudhar main. First Aid treatment kiya main dora jua tha ekdumse dard ho raha tha majboor hoke muje Ghar jaana para main Ghar chala gaya aapna jaan bachakar ghar chala gaya.”

[6] The inquiry reported dated 17.10.2019 of the respondents also found the petitioner used criminal force and committed an assault upon Jagdish Prasad Chawra.

[7] By a fair reading of the statement and the inquiry report, it appears to this court that it constitutes the cause of action to initiate the proceedings against the petitioner. Moreover, this court also does not find any motive or any personal grudge or any enmity between Jagadish Chandra Chawra and the petitioner herein which could instigate such act for which the petitioner is found guilty and punished by the respondents. This court is not in a position to believe the manner in which the allegation has been made against the petitioner. The statement that the petitioner suddenly entered into the room and started beating Jagadish even there is no eye witness to this transaction does not satisfy this court. Moreover, on the strength of the hearsay evidence, a grievous punishment has been imposed upon the petitioner holding his action as misconduct. This court feels that this is excessive and the same is not proved beyond reasonable doubt. It is also evident from the record that by order dated 18.01.2023 passed by the Chief Judicial Magistrate, Khowai, Tripura in case No.PRC(WP) 06 of 2020, the petitioner has been acquitted from the said allegation.

[8] Having perused the entire records and the contention as advanced by the counsel for the parties, this court has no hesitation to set aside the impugned order of dismissal without placing any reliance upon the judgment acquitting the petitioner. This court also finds fault in the manner in which the departmental proceedings have been conducted against the petitioner. Hence, the writ petition is allowed and the impugned orders as challenged are set aside. It is needless to

mention here that the petitioner is entitled for all consequential benefits that shall be extended to him by the respondents. 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

