

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.882 of 2022

Sri Sura Sing Jamatia

.....Petitioner(s)

V E R S U S

The State of Tripura and another

..... Respondent(s)

For Petitioner(s) : Mr. D.C. Roy, Advocate.

For Respondent(s) : Mr. D. Sharma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

ORDER

24.02.2023

Heard Mr. D.C. Roy, learned counsel appearing for the petitioner and also heard Mr. D. Sharma, learned Additional Government Advocate appearing for the respondent-State.

[2] The present writ petition has been filed by the petitioner under Section 226 of the Constitution of India for setting aside the impugned memorandum dated 04.08.2021 issued by the Commissioner of Taxes, Government of Tripura.

[3] Brief facts, in a nutshell, are that petitioner met with an accident and subsequently applied for commuted leave on medical ground. The respondents issued memorandum of show-cause and asked the petitioner for submission of written statement. Pursuant to the same, the petitioner filed written statement in his defense. The respondents

initiated departmental inquiry against the petitioner for his unauthorized absence. The wife of the petitioner submitted a prayer to the respondent for payment of salary and service benefits to the petitioner but since no reply has been filed she approached this Court and the Court directed the respondents to complete the inquiry within 3(three) months. Thereafter, the respondent No.1 passed the impugned order on 04.08.2021. Hence, this writ petition.

[4] Being aggrieved and dissatisfied with the action of the respondents, the petitioner filed this writ petition seeking the following relief :

- “(i) Admit this petition;
- (ii) Issue notice to the respondents;
- (iii) Call for the records;
- (iv) After hearing the parties, be pleased to set aside the memorandum No. IV-8(101)-TAX/90/32392-95 dated 04.08.2021 issued by the respondent No.1;
- AND
- (v) Would be further pleased to direct the respondents to pay the salary and other benefits etc. to the petitioner.”

[5] Mr. D.C Roy, learned counsel for the petitioner contends that the respondents have violated the principle of natural justice in issuing the memorandum dated 04.08.2021 which is *per se* and perverse and the same has been issued without issuing notice to the petitioner. He further contends that after the accident, the petitioner filed a representation for gratuity and relief but the same was not considered by the respondents. Subsequently, the respondents have taken a plea that the petitioner was

continuously remained absent from his service. Counsel further submits that the petitioner went to office to resume his duty but the respondents did not allow him. Consequently, he prays for setting aside the impugned memorandum dated 04.08.2021 issued by the Commissioner of Taxes, Government of Tripura.

[6] On the other hand, Mr. D. Sharma, learned Additional Government Advocate appearing for the respondents vehemently opposed the prayer of the petitioner contending that the petitioner was unauthorisedly remained absent from his service for the last 16 years and prior to issuance of the impugned memorandum dated 04.08.2021, notices were served upon him but the petitioner did not turn up.

[7] After hearing learned counsel for the respective parties, this Court finds that after issuance of show-cause notice, the petitioner has not submitted any explanation for his alleged unauthorized absence from duty, more so, when the charges were framed against the petitioner, he ought to have submitted his written statement raising his objection. This Court on perusing the records also finds that the petitioner remained absent unauthorisedly from duty for more than 5(five) years without any prior intimation or application to the competent authority and the respondents have not committed any error in treating his unauthorized absence as 'deemed to have resigned from service'.

[8] Accordingly, the instant writ petition is dismissed. Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Dipesh

