

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 1071 of 2022

Sri Balaram Das

---Petitioner(s)

Versus

The State of Tripura And 5 Others

---Respondent(s)

For Petitioner(s)	: Ms. Sarama Deb, Advocate. Ms. S. Ghosh, Advocate.
For Respondent(s)	: Mr. D. Sharma, Addl. GA.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

10.08.2023

Heard counsel for the parties.

The petitioner has filed the instant writ petition urging this court for directing the respondents to set aside the order dated 06.06.2020 passed by the Disciplinary Authority and directing the respondents to resume the service of the petitioner by re-appointing him for the post of Naib-Subedar/Sub(Compounder).

It is the case of the Petitioner he was/is a Naib-Subedar/Sub (Compounder) bearing No. 11130001 and he was posted at 12th Bn TSR (IR-VIII). He being the compounder was attached to medical platoon of the Battalion and he was not concerned with law and order duty. The Assistant Commandant i.e. the respondent No. 5 vide endorsement no. DIGP AP NO. 4911-19/F44(3)/DAP/TSR/RSV/II dated 27.08.2019, ordered the Petitioner on 28.08.2019 to report to the SDPO, Jirania for performing law and order duty at Radhapur Police Station. On the very date i.e. 28.08.2019 vide another order no. 2056/F.07(06)/TSR-XII/Estt/2009, the Respondent No. 5 directed Petitioner to accompany the law and order duty party of the unit of the 12th Bn TSR (IR-VIII) along with the first aid box and order available necessary Emergency Medical Kits and medicine to attend medical emergency and causality to the unit

personal during the personal law and duty. When Petitioner met the respondent No. 5 and tried to make him understand about his actual duty, respondent No. 5 became furious and revoked petitioner using untellable language and forbid him to go for duty. So, the petitioner did not report to the SDPO Jirania. On 31.08.2019, the petitioner informed the whole incident to respondent No. 3, but he did not pay any heed to petitioner rather miss behaved with him. Being disheartened petitioner left Bn head quarter on 31.08.2019 for his medical treatment after submitting departure report and attended Teliamura Sub-Division Hospital. Respondent No. 3 also did not show cause Petitioner prior framing of charge against him and most arbitrarily giving ex-parte order without providing ample chance to the petitioner to defend himself, removed him from his service. The respondent No. 3 being biased and most illegally imposed major punishment for no fault on part of petitioner and punished him u/s 12 (1) (1) of the Tripura State Rifles Act, 1983 and removed Petitioner from his service. Aggrieved thereby, the petition has approached this court for seeking the following reliefs:

- (i) *Issue Rule upon the respondent to show cause as to why a writ in the nature of mandamus and/or order/orders and direction/directions of like nature shall not be issued whereby directing the respondents to set aside the order dated 06.06.2020 passed by the Disciplinary Authority and directing the respondents to resume the service of the petitioner by re-appointing him for the post of Naib-Subedar/Sub(Compounder).*
- (ii) *To pass an order directing the respondents to pay the petitioner the salary along with interest till date.*
- (iii) *To make the rules absolute.*
- (iv) *To pass further order/orders as Your Lordship dim fit and proper.*

Ms. Sarama Deb, learned counsel appearing for the petitioner has submitted before this court that the petitioner has basic knowledge and skill about pharmacy and he has no training regarding law and order maintaining. But the respondents ordered him to perform the duty of Law and Order which might be dangerous for public as well petitioner. The petitioner was posted and appointed as Naib-Subedar

(Pharmacist/Compounder) and he had training and skills as well as basic knowledge regarding the same. When the petitioner left the Battalion on 31.08.2019 for his treatment, he mentioned in his departure report that he is willing to perform his duty as Pharmacist/Compounder to which he was appointed. Moreover, in his reply dated 10.10.2019 of the respondents, the petitioner also expressed his willingness to join the work to the post to which he was appointed as well as posted, but the respondents did not consider his request reply rather violating the natural justice, initiated inquiry against him illegally.

On the contrary, Mr. D. Sharma, learned Addl.GA appearing for the respondents has submitted before this court that it is not a fact that the petitioner does not have training about maintaining of law & order duties. As per service record, the petitioner was initially appointed as Havildar (General Duty) in 2nd Bn TSR on 20.05.2011 and thereafter he underwent basic training of Havildar (General Duty) at Ach. Rama Rao TSR training centre, R.K. Nagar. Before completion of basic training of Havildar (General Duty) he had submitted technically resignation of the post of Havildar (General Duty) and appointed as Naib Subedar (Compounder) and he had completed the basic training for a period of 36 weeks w.e.f 02.01.2012 to 10.12.2012 at ACH. Rama Rao Tripura State Rifles Training Centre, R.K. Nagar, Agartala Tripura West as Naib Subedar (Compounder) as like the training of other members of the Rifles.

Having considered the submission as made by the counsel for the parties and also having gone through the record, this court is of the view that the petitioner has not shown any ethics all throughout towards his profession. Though he was initially appointed as Havildar (General Duty) in 2nd Bn TSR and he was, in course of his service, posted as Naib-Subedar (Pharmacist/Compounder) as he had training and skills as well as basic knowledge regarding the same. It is expected from any

defence personnel that as and when required he shall be available for performing his duties at any circumstances. It is also evident that the petitioner did not respond to any of the notice sent to him through various methods for appearing before the Inquiry Officer. Moreover, he did not turn up before the Disciplinary Authority within the stipulated date and time as had been asked by them. The petitioner also did not produce any medical report in support of his contention that he was unwell for a prolonged period resulting which he could not appear before the Disciplinary Authority. Subsequently, when the respondents issued a punishment order vide order dated 06.06.2020, the petitioner seems to have woken up from slumber and preferred an appeal before the Appellate Authority. It is also evident from the record that the petitioner could not make out his case before the Appellate Authority as well. Accordingly, this court is of the view that the petitioner has not approached this court with clean hands and he has failed to make out his case. Therefore, the instant petition stands dismissed affirming the impugned order 06.06.2020 issued by the Commandant, 12th Battalion TSR(IR-VIII).

With the above observation and direction, the present petition stands disposed of. As a sequel, stay if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Dipak

DIPAK DAS Digitally signed by
DIPAK DAS
Date: 2023.08.11
16:41:16 +05'30'