

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WA No.04 of 2024

Dr. Tejendra Bhakta

..... Appellant(s)

V E R S U S

The State of Tripura and others

..... Respondent(s)

For Appellant(s) : Mr. S. Lodh, Advocate,
Mr. Subham Majumder, Advocate.

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

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA

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20.02.2024

Heard Mr. S. Lodh, learned counsel appearing for the appellant and also heard Mr. D. Sharma, learned Additional Government Advocate appearing for the State.

[2] Petitioner was re-employed after retirement from the post of Lecturer (Selection Grade) on contractual basis for a period of 1(one) year *with effect from* 01.04.2019 vide notification dated 08.03.2019 (Annexure-1) with the condition that during his contractual appointment, he shall draw the last drawn gross salary, less pension before commutation and dearness relief (DR) at the time of superannuation. He will continue to get his pension DR during the period of his contractual service. Other conditions of service will be governed by the relevant rules and orders that may be in force from time to time by the Government of Tripura. By virtue of the memorandum dated 30.09.2022, his contractual appointment was extended up to 31.03.2023 (Annexure-5). Meanwhile, by the decision of the Advisory Committee of the

B. Pharma (Practice) Course at Annexure-7, petitioner was appointed in the Guest Faculty of the B. Pharma (Practice) Course run by RIPSAT in lieu of remuneration of Rs.700/- for each lecture vide Annexure-8, memorandum dated 23.02.2023. Petitioner had retained the official quarter after superannuation on the belief that he is entitled to continue in view of the provisions of Allotment of Government Residences (General Pool) Rules, 1973 and the regulations as amended in the Schedule known as Allotment of Government Residences (General Pool) Rules, 1999. However, he has been saddled both with the recovery of the payment of honorarium @ Rs.700/- as a Guest Lecturer in RIPSAT for certain period and also for recovery of penal rent for occupation of the quarter from 01.02.2020 till 28.02.2023 when he has vacated it even as per the statement of the respondents in their counter affidavit at paragraph 14.

[3] Being aggrieved, he approached the Writ Court to assail the order dated 23.02.2023 (Annexure-8), order dated 17.03.2023 (Annexure-10), order dated 18.04.2023 (Annexure-11), order dated 27.02.2023 (Annexure-16) and order dated 13.04.2023 (Annexure-17).

[4] The learned Writ Court after hearing learned counsel for the parties and taking note of the pleadings placed from record set aside the order of recovery of Rs.700/- per class and directed it to be reimbursed to the petitioner within a stipulated period. Insofar as the dues against the occupied quarter, licence fees and water charges are concerned, it was held that the action of the respondents suffered from violation of principles of natural justice under the *audi alteram partem* rule. Therefore, the learned Writ Court

gave liberty to the respondents to issue a show-cause notice upon the petitioner with regard to the said demand and obtain his explanation and take a decision for recovery if found liable to pay.

[5] Petitioner being aggrieved by that part of the order whereby the recovery of penal rent, water charges, etc. vide Annexure-16 has not been set aside while remanding the matter to the respondents, has approached this Court in appeal.

[6] We have considered the submissions of learned counsel for the parties. It is not in dispute that the order of recovery though having adverse penal consequences upon the petitioner has been issued without show-cause notice to the petitioner. The learned Writ Court was also of the opinion that the principles of natural justice should not be violated. Therefore, the learned Writ Court gave liberty to the respondents to issue a notice and seek his explanation and thereafter take a decision in the matter of recovery of the alleged dues. However, the order dated 27.02.2023 was not set aside. If the learned Writ Court was satisfied that the impugned order of recovery suffers from violation of principles of natural justice and the matter requires to be remitted to the respondents to take a fresh decision in accordance with law after due notice to the petitioner, the logical course would have been to set aside the order of recovery dated 27.02.2023 so far as it relates to the petitioner.

[7] Upon considering the rival submissions of the parties, we set aside the order of recovery dated 27.02.2023. The competent authority

would issue a show-cause notice upon the petitioner within a period of 15 days. Petitioner would submit a reply thereto on the proposed recovery of penal quarter rent, water charges and other ancillary charges for the period in question within 15 days thereafter. The competent authority would take a decision on the show-cause notice after taking into consideration his reply, in accordance with law, within a period of 15 days thereafter. If the competent authority finds that the explanation of the petitioner does not merit acceptance and he is liable to pay the penal rent and other ancillary charges for the quarter retained by him, it would proceed to recover the same in accordance with law.

[8] The writ appeal is disposed of in the aforesaid manner. Pending application(s), if any, also stands disposed of.

(S.D. PURKAYASTHA) J

(APARESH KUMAR SINGH) CJ

DIPESH DEB

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