

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 288/2022

Sri Rana Kishore Debbarma

----Petitioner(s)

Versus

The State of Tripura and 4 ors.

----Respondent(s)

For Petitioner(s) : Mr. AK Pal, Advocate

For Respondent(s) : Mr. D. Sarma, Addl. GA

HON'BLE MR. JUSTICE ARINDAM LODH

Order

26/02/2024

Heard Mr. AK Pal, learned counsel for the petitioner. Also heard Mr. D. Sarma, learned Additional GA appearing for the respondents-State.

By means of filing the instant writ petition, the petitioner has prayed for the following reliefs:

- “(i) Admit the writ petition of the petitioner;**
- (ii) Issue notice upon the respondents;**
- (iii) Call for the relevant records from the custody of the respondents;**
- (iv) After hearing the parties Your Lordship would be kind enough to set aside/quashed the final punishment order dated 16.11.2020 whereby the respondent no. 5 dismissed the service of the petitioner;**
- (v) The petitioner also prays before Your Lordship to set aside/quashed the order of Appellate Authority dated 09.03.2021 whereby the Appellate Authority dismissed the appeal petition of the petitioner dated 10.12.2020;**
- (vi) And the petitioner prayed before the Hon'ble Court to set aside the enquiry report dated 24.04.2012 submitted by the Enquiry Officer to the Disciplinary authority and your Lordship also kind enough to cancel/set aside the preliminary punishment order of the petitioner;**
- (vii) The petitioner prayed before your Lordship to direct the respondents to reinstate the petitioner in his service for fair ends of justice;**
- (viii) To pass any other order/orders as deems fit and proper.”**

Briefly stated, the petitioner is a Police Constable. A Departmental Proceeding was conducted against the petitioner on the allegation that he kept one woman in his quarter allotted to him by the Government, and also on the allegation that he fled away from the police station after his arrest. The petitioner participated in the proceeding, but, copy of the report of the Enquiry Officer was not communicated to him. So, he could not file representation to deal with the findings of the enquiring authority. The petitioner approached this court by filing a writ petition being W.P(C) 396 of 2015, and while disposing of that writ petition, the respondents were directed to furnish a copy of the enquiry report to the petitioner enabling him to submit his representation. Accordingly, the respondents had furnished copy of the enquiry report to the petitioner. The

petitioner submitted his representation wherein he stated that he was totally innocent and the matter was compromised amicably with the woman concerned, and he was also acquitted from the criminal case lodged against him on the allegation of his fleeing away from the police station. After considering overall evidences transpired during the course of disciplinary proceeding, the respondents thought it fit to remove the petitioner from service, and accordingly, vide order dated 16.11.2020, the service of the petitioner was dismissed. The petitioner by way of filing the instant writ petition has challenged the order of removal from service issued by the competent authority of the respondents.

Mr. Pal, learned counsel, appearing for the petitioner has submitted that the woman was the relative of the petitioner and the matter was compromised amicably between him and the woman. Panchayat Samiti was also involved in such compromise.

Mr. Sarma, learned Additional GA, appearing for the respondents-State opposing the submissions of Mr. Pal, learned counsel, has submitted that the petitioner had been given all reasonable opportunities to defend his case, but, he failed to do so and in this respect, the court's power to re-appreciate the evidence is very limited.

I have considered the submissions of learned counsel appearing for the parties.

On careful consideration of the submissions of learned counsel appearing for the parties and the nature of allegation against the petitioner, in my opinion, order of removal is dis-proportionate. No doubt, the petitioner being a member of disciplined force should not have involved in such immoral act. However, as I have said earlier, the order of removal appears to be dis-proportionate to the gravity of the offence. In my opinion, justice will be rendered if the quantum of punishment is modified to the extent that there will be penalty of stoppage of 3 (three) increments with cumulative effect, and further directing to withhold the

consideration of promotion of the petitioner for next 10 (ten) years to the immediate higher post.

Accordingly, the punishment imposed upon the petitioner is modified and reduced to penalty of stoppage of 3 (three) increments with cumulative effect, with further direction upon the respondents to withhold the consideration of promotion of the petitioner for next 10 (ten) years to the immediate higher post.

The suspension period of the petitioner shall be treated as 'not spent in duty', and he would not be entitled to get any salary for this period. With the aforesaid directions, the petitioner shall be reinstated in service within a period of 3 (three) weeks from the date of receipt of the copy of this order.

Resultantly, the impugned order of removal dated 16.11.2020 is interfered with the above modifications and directions, and thus, the instant writ petition stands partly allowed.

Pending application(s), if any, also stands disposed.

JUDGE

SAIKAT KAR Digitally signed by SAIKAT KAR
Date: 2024.02.26 17:51:49
+05'30'