

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No. 320 of 2023

Pankaj Kanti Bhowmik, son of late Sudhir Ch. Bhowmik,
resident of Dhaleshwar Road No.14/8, P.O. Dhaleshwar, P.S.
East Agartala, District- West Tripura, PIN- 799007.

--- Petitioner(s)

Versus

- 1. The State of Tripura, represented by the Commissioner & Secretary to the Forest Department**, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex Sub-Division- Sadar, District- West Tripura.
- 2. The Chief Secretary**, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura.
- 3. The Joint Secretary Forest Department**, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura.
- 4. The Principal Chief Conservator of Forests**, Government of Tripura, Aranya Bhavan, Gurkhabasti, P.N. Complex, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Sadar, District- West Tripura.
- 5. Sri Balbir Singh, IFS (Retired)**, the then Inquiring Authority, resident of Fat No.377, Hira Enclave, Sangur Road, Nabha, District- Patiala, Punjab- 147201.
- 6. The Wild Life Warden**, Sepahijala Wild Life Sanctuary, Sepahijala, P.O. & P.S. Bishalgarh, District- Sepahijala Tripura.

---Respondent(s)

For Petitioner(s)	:	Mr. Kawsik Nath, Advocate Mr. Koomar Chakraborty, Advocate.
For Respondent(s)	:	Mr. M. Debbarma, Addl. GA
Date of hearing and delivery of judgment and order	:	15.03.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & order (Oral)

Heard Mr. Koomar Chakraborty, learned counsel for the petitioner. Also heard Mr. M. Debbarma, learned Addl. G.A. representing the State-respondents.

[2] This writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of mandamus and/or in the nature thereof, for mandating/directing the respondents, to revoke/rescind the impugned inquiry report dated 02.09.2011, the impugned order of penalty dated 05.06.2020, the impugned appellate order dated 28.12.2021 and the impugned review order dated 06.05.2022 extending all his benefits as sought for in the writ petition.

[3] Brief facts, leading to this case are that the petitioner had served as Forest Ranger, under the Forest Department, Government of Tripura. On 31.03.2010, Articles of Charge were leveled against the petitioner. Thereafter, on 05.10.2010 and 30.11.2010, the petitioner submitted 'No Confidence' petitions in connection with the appointment of a second Inquiring Authority, who was an employee of the same Department, but the same were not considered. On attaining the age of superannuation, the petitioner retired from service on 31.01.2011. On 02.09.2011, the impugned Inquiry Report was issued, thereby holding the petitioner as guilty. According to the petitioner on 05.06.2020, the impugned penalty order was issued by

the so-called Disciplinary Authority, however, without any signature or authorization. On 09.09.2021, the petitioner was communicated with the said penalty order. The petitioner preferred an appeal against the said penalty order on 16.11.2021. By an order dated 28.12.2021, the said appeal was dismissed. Thereafter, the petitioner filed an application dated 13.01.2022, praying for reviewing the said impugned appellate order dated 28.12.2021. But, by an order dated 06.05.2022, such review application was dismissed.

[4] It is contended on behalf of the petitioner that by taking resort to several illegalities and arbitrary means, the petitioner has been subjected to the penalty and till date, the post-retiral benefits of the petitioner have been withheld, without any reason. Aggrieved thereby, the petitioner has approached this Court seeking following reliefs:

"(i) *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, *mandating/directing* them, to revoke/rescind the impugned Inquiry Report dated 02.09.2011, the impugned Order of Penalty dated 05.06.2020, the impugned Appellate Order dated 28.12.2021 and the impugned Review Order dated 06.05.2022(Annexure-5, 6, 8 & 10 respectively supra);

(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, *mandating/directing* them, to release the full amount of **Leave Salary & Gratuity** of the Petitioner, in his favour, alongwith *Interest @ 10% per annum (w.e.f., the date of his retirement, i.e., 31.01.2011)*, including all the consequential benefits following therefrom;

(iii) Call for the records, appertaining to this Writ Petition....."

[5] Mr. Koomar Chakraborty, learned counsel for the petitioner contends that the impugned inquiry report dated

02.09.2011 cannot be sustained inasmuch as, such inquiry was conducted under the CCS (CCA) Rules, 1965 not under the CCS (Pension) Rules, 1972, even after the retirement of the petitioner. It is also submitted that without making any consideration of the prayer of the petitioner regarding his 'No Confidence' upon the subsequently appointed Inquiring Authority, the penalty is imposed upon him.

[6] It is further contended on behalf of the petitioner that the impugned order of penalty dated 05.06.2020 was issued after elapse of 9 years from the date of issuance of the connected impugned inquiry report dated 02.09.2011 and the said order of penalty dated 05.06.2020 was not signed by any competent authority. Mr. Chakraborty, learned counsel for the petitioner, therefore, urges this Court to set aside the inquiry report dated 02.09.2011 and impugned order of penalty dated 05.06.2020 along with subsequent impugned appellate order dated 28.12.2021 and the impugned review order dated 06.05.2022. He also prays that the respondents should be directed to release all his benefits as sought for in the petition forthwith.

[7] On the other hand, Mr. M. Debbarma, learned Addl. G.A. representing the State opposes the submissions made by Mr. Chakraborty, learned counsel for the petitioner. He, contends that on the basis of inquiry report dated 02.09.2011, the order of penalty dated 05.06.2020 has been issued and the same should not be interfered with. Mr. Debbarma, further prays that the instant

petition filed by the petitioner is not sustainable and the same is liable to be rejected.

[8] Heard learned counsel representing both the sides. Perused the record.

[9] On perusal of record it is seen that on 31.03.2010, the following Articles of charge were leveled against the petitioner:

Article-I

That the said Sri Pankaj Kanti Bhowmik, Forest Ranger while functioning as Assistant Wildlife Warden, Abhoya Wildlife Range and Project Manager, Abhoya RMU under Trishna Wildlife Sanctuary, willfully neglected his duties with ulterior motives by not executing the Government works as assigned to him in accordance to the norms/orders of Forest Department and General financial rules. He thus acted in manner most unbecoming of Government Servant and to the detriment of the Government interest by misappropriating Government money to the tune of Rs.3,53,572/- (Three lakhs fifty three thousand five hundred seventy two) only.

Thus Sri Pankaj Kanti Bhowmik, Forest Ranger is charged for lack of integrity and serious misconduct.

Article-II

That the said Sri Pankaj Kanti Bhowmik, Forest Ranger while functioning as Assistant Wildlife Warden, Abhoya Wildlife Range and Project Manager, Abhoya RMU under Trishna Wildlife Sanctuary, willfully allowed a encroacher to encroach Forest land of about 1.20 hac. of the approved project areas of Permanent Nursery under Tripura JICA Project at I/C Nagar (Battila) by not covering the areas with barbed wire fencing though for which he has got valid sanction & work order from the Wildlife warden, Trishna (Chief Project Officer, Tripura JICA Project).

Thus Sri Pankaj Kanti Bhowmik, Forest Ranger is charged for lack of integrity and serious misconduct.

Article-III

That the said Shri Pankaj Kanti Bhowmik, Forest Ranger while functioning as Assistant Wildlife Warden, Abhoya Wildlife Range and Project Manager Abhoya R M U under Trishna Wildlife Sanctuary willfully neglected his duty with ulterior moves and misappropriated Government money of Rs. 7,000/= (Rupees seven thousand) only by making irregular entry in Cash Book of Project Manager R M U, Abhoya. He thus acted in manner most unbecoming of Government servant and to the detriment of the Government interest.

Thus Shri Pankaj Kanti Bhowmik, Forest Ranger is charged for lack of integrity and serious misconduct."

[10] The petitioner on attaining the age of superannuation, retired from service on 31.01.2011. On the basis of the above quoted Articles of charge, on 02.09.2011, the impugned

inquiry report was issued holding the petitioner as guilty. The findings of the said inquiry report are extracted as under:

"...Findings:

On the basis of documentary and oral evidences adduced in the case during the course of this inquiry before me by the Prosecution (*the A.O. remained absent without any intimation during the proceedings of the case from 22.03.2011 on wards*) and in the view of the reasons given above, I hold all the three charges brought out against Shri Pankaj Kanti Bhowmik, Forest Ranger, the then Assistant Wildlife Warden, Abhoya Wildlife Range and Project Manager, Abhoya RMU under Trishna Wildlife Sanctuary vide memorandum No. F.19(721)/Vig/For-2009/33, 192-96 dated 31.03.2010 of Principal Chief Conservator of Forests, Tripura, Government of Tripura are established and Shri Pankaj Kanti Bhowmik, Forest Ranger, the charged officer is found guilty of all the three charges.

[Balbir Singh, IFS]

Inquiry Authority

[Addl. Pr. Chief Conservator of Forests (APR)]

[the then Chief Conservator of Forests (P)]"

[11] On perusal of record it is further noticed that after the elapse of about nine years from the date of issuance of inquiry report (i.e. on 02.09.2011), order of penalty was issued on 05.06.2020, the same is extracted hereinbelow:

**"GOVERNMENT OF TRIPURA
FOREST DEPARTMENT
ORDER**

WHEREAS disciplinary proceeding was drawn up under Rule 14 of CCS (CC & A) Rules, 1965 against Sri Pankaj Kanti Bhowmik, FR (now Retd.) vide Memo No. F.19(721)/Vig/For-2009/33, 192-96, dated 31.03.2010. The charge against Sri Pankaj Kanti Bhowmik, FR (now Retd.) is that while functioning as Assistant Wildlife Warden, Abhoya Wildlife Range and Project Manager, Abhoya RMU under Trishna Wildlife Sanctuary, willfully neglected his duties with ulterior motives, by not executing the Government works as assigned to him in accordance to the norms/orders of Forest Department and General Financial Rules. He thus acted in a manner of unbecoming of Government Servant and to the detriment of the Government interest by misappropriating Government money to the tune of Rs.3,60,572/- (Rupees three lakhs sixty thousand five hundred seventy two) only. Sri Pankaj Kanti Bhowmik, FR (now Retd.) was charged for lack of integrity and serious misconduct.

AND WHEREAS Sri Pankaj Kanti Bhowmik, FR (now Retd.) has submitted his written statement of defense dated, 17.04.2010 denying all the charges brought against him.

AND WHEREAS the Inquiring Authority conducted an enquiry and submitted findings on 02.09.2011 that Sri Pankaj Kanti Bhowmik, FR (Now Retd.) was found guilty of all the charges for misappropriating Government money to the tune of Rs.3,60,572/- (Rupees three lakhs sixty thousand five hundred seventy two) only.

AND WHEREAS Sri Pankaj Kanti Bhowmik, FR (now Retd.) had already retired from Government service w.e.f. 31.01.2011, the said disciplinary proceeding case was dealt under sub clause (i) of Clause(b) of sub rule (2) of Rule 9 of CCS (Pension) Rules, 1972, as adopted in the State of Tripura, which states that the departmental proceedings, if instituted before a person retires, shall be deemed to be proceedings under the Central Civil Services (Pension) Rules, 1972 and shall continue after his retirement.

AND WHEREAS Tripura Public Service Commission has consented to impose penalty of 10% cut in pension for two years and full recovery of amount of Rs.3,60,572/- only from Leave Salary and DCRG of Sri Pankaj Kanti Bhowmik, FR (now Retd.).

AND NOW, THEREFORE after considering all aspects of the case, the Governor of Tripura is hereby pleased to order the following penalties:

- a) Recovery of Rs.3,60,572/- (Rupees three lakhs sixty thousand five hundred seventy two) only from leave salary and DCRG of Sri Pankaj Kanti Bhowmik, FR (now Retd.).
- b) Withholding 10% of the pension for a period of 2(two) years.

This order shall take immediate effect.

By order and in the name of
Governor of Tripura

(Harshakumar C)
Joint Secretary to the
Government of Tripura."

[12] In view of the above discussions, it is observed that Articles of charges were leveled against the petitioner on 31.03.2010 and the petitioner was retired from service on 31.01.2011. Thereafter, on 02.09.2011, the impugned inquiry report was issued wherein the petitioner was found guilty. It is very strange that respondent-State was sleeping over the issue for several years and imposed penalty upon the petitioner by way of issuing an order of penalty in the year 2020. In the above-mentioned impugned order of penalty, nowhere the reasons for

causing such delay have been explained. This Court feels that such inaction on the part of State respondents should never be entertained.

[13] With the above observations, this Court opines that the impugned orders passed by the respondents are liable to be set aside and the same is ordered. Consequently, this instant writ petition filed by the petitioner is allowed directing the respondents to release all the benefits as sought for by the petitioner at the earliest.

Resultantly, this writ petition is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE



Sabyasachi G.

**SABYASACHI
GHOSH**

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