

**HIGH COURT OF TRIPURA  
AGARTALA**

WP(C) No.548 of 2023

**Surasen Tripura,**

Son of Gajendra Tripura, resident of village-Manya Kumar Para, PO-Raima,  
PS-Raishya Bari, District-Dhalai Tripura, Pin-799104.

**....Petitioner(s)**

**Versus**

- 1. The State of Tripura**, represented by the Commissioner & Secretary to the Home Department, Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, PO-Kunjaban, PS-New Capital Complex, Sub-Division-Sadar, District-West Tripura.
- 2. The Director General of Police**, Government of Tripura (*Appellate Authority*), Police Headquarters, Akhaura Road, Agartala, District-West Tripura.
- 3. The Inspector General of Police (L&O)**, Tripura (*Disciplinary Authority*), Police Headquarters, Akhaura Road, Agartala, District-West Tripura.
- 4. The Superintendent of Police**, Khowai District, Khowai, Tripura.
- 5. Sri Rajib Sengupta**, the then I/C Additional Superintendent of Police, Khowai Tripura (*Inquiring Authority*). Notice may be served through the Respondent No.2, namely, the Director General of Police, Government of Tripura.

**....Respondent(s)**

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For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate  
Mr. K. Chakraborty, Advocate

For the Respondent(s) : Mr. M. Debbarma, Addl. GA

Date of hearing & delivery : **06.09.2024**  
of judgment & order

Whether fit for reporting : **No**

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**HON'BLE MR. JUSTICE ARINDAM LODH**

**Judgment & Order (Oral)**

Heard Mr. K. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Addl. GA appearing for the respondents-State.

2. The petitioner was the Officer In-charge of Mungiakami Police Station. While he was discharging his duty on 28.01.2020, he detained a vehicle and found contraband goods inside the cabin of the vehicle. He

registered a case under Section 20(b)(ii)(c)/29 of NDPS Act, 1985. The vehicle was brought to the police station where they opened the artificially built secret cabin and found contraband articles.

3. Thereafter, all on a sudden, a show-cause notice was issued upon him as to why a departmental proceeding should not be initiated against him for not informing his higher officer regarding the detention of the vehicle at the appropriate time. He replied to the show-cause stating *inter alia* that he had informed the detention of the vehicle to the higher authority i.e. the Sub-Divisional Police Officer (for short, SDPO) of the concerned jurisdiction. He further replied that the SDPO came to the spot and inspected the vehicle. Furthermore, since it was not possible to break the artificially built cabin, the vehicle was brought to the Mungiakami Police Station where the cabin was broken and the contraband articles found therein were seized in presence of SDPO.
4. Being dissatisfied with the said reply, the disciplinary authority initiated a proceeding against him. During the proceeding following articles of charges were framed:

"ARTICLE-I

*That the said Shri Surasen Tripura, Inspr. of Police (UB) (Now under suspension) while functioning as O/C Mungiakami Police Station, Khowai District Tripura w.e.f. 03-12-2018 to 31-01-2020 (FN) committed gross misconduct as well as negligence in duty in c/w intimation to this higher authority regarding detention of a vehicle containing suspected ganja in its concealed chamber from 7 AM on 28-01-2020 vide MGK PS case No. 03/2020 dated 28-01-2020 u/s 20(b)(ii) (c)/29 NDPS Act, 1985.*

*By the above mentioned act of negligence on the part of Shri Surasen Tripura, Inspr. of Police (UB) and devotion of duty violating the Rule 3 of Tripura Civil Service (Conduct) Rules, 1988 which is most unbecoming of a Government employee.*

*This is issued vide DGP Tripura approval dated 26-03-2020.*

ARTICLE-II

*That the said Shri Surasen Tripura Inspr. of Police (UB) while functioning as O/C MGK PS (Now under suspension) failed to inform his higher authority viz SDPO, Teliamura, I/C Addl. SP (Khowai) or SP*

*(Khowai) regarding detention of a vehicle bearing registration Number CG-98-Z-4566 on NH near Salbagan by his HC namely Pijush Sarkar of MGK PS (Now also under suspension) while doing vehicle checking, the detained vehicle was suspected to be loaded with concealed ganja in the chamber of the vehicle and was stopped by the Head Constable and his team at about 0700 hours on 28-01-2020. It was also alleged that Head Constable Pijush Sarkar demanded Rs. 10 lakhs from the driver and assistant of the said vehicle on O/C MGK's direction and he had deployed two SPOs to guard the said vehicle in civil dress and inform him when the owner comes.*

*By the above mentioned act of negligence on the part of Shri Surasen Tripura, Inspr. of Police (UB) and devotion of duty violating the Rule 3 of Tripura Civil Service (Conduct) Rules, 1988 which is most unbecoming of a Government employee.*

*This is issued vide DGP Tripura approval dated 26-03-2020."*

5. Thereafter, an Inquiring Officer was appointed. The petitioner participated in the proceeding. During the proceeding, the SDPO appeared. He was cross-examined. During cross-examination and in reply to a specific question, the SDPO stated that the contraband items were seized in his presence. The Inquiring Officer submitted his report. After perusal and analysis of the report, the disciplinary authority held the petitioner guilty of committing misconduct and imposed penalty of "*withholding of one-time scale increment of pay without cumulative effect*". Being aggrieved of such penalty, the petitioner has approached this Court by means of filing the instant writ petition.

6. Among other questions raised, one of the important questions which has been highlighted is that the main allegation levelled against him is that he did not inform his higher authority about the detention of the vehicle and seizure has not been proved. It is apparent on the face of the record that the SDPO was himself present at the time of seizure of the contraband articles. Even the SDPO has admitted in his cross-examination that he came to the spot after being informed by the Officer In-charge where the vehicle was detained.

7. As I have said earlier, I have considered and perused the said evidence of SDPO. It is settled proposition of law that in exercise of the power vested upon this Court under Article 226 of Constitution of India, the writ Court cannot re-appreciate the evidence. However, if it is found that the evidence considered by the disciplinary authority or the appellate authority is contrary to the statements made by the witnesses and if it appears to be perverse to the Court, then, in exercise of its discretionary and extraordinary jurisdiction, the Court can re-appreciate and pass order in accordance with law.

8. In the instant case, I find that the finding of the disciplinary authority is totally perverse, which hits the conscience of the Court and thus, calls for interference by this Court. The main allegation as enumerated in the articles of charges is that the petitioner did not inform his higher officer, has not been proved. The evidence is totally otherwise because the SDPO himself has stated in his cross-examination that he came to the spot where the vehicle was detained on being informed and on his instruction, the vehicle was brought to the police station and in his presence the contraband items were seized.

9. In view of this clear evidence adduced by the SDPO during the proceeding, the disciplinary authority has committed serious error of facts, calling for interference by this Court. Accordingly, the findings of the disciplinary authority as well as appellate authority are interfered with.

10. Resultantly, the impugned order of penalty of “*withholding one time scale increment of pay without cumulative effect*” vide order dated 03.09.2021 is set aside and quashed. The petitioner shall be entitled to all benefits as if no penalty was imposed upon him.

The instant writ petition stands allowed and disposed in terms of the above observation and directions.

**JUDGE**

*Snigdha*

**SANJAY  
GHOSH** Digitally signed by  
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