

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.726 OF 2023**

Sri Rabindra Debbarma, NK (GD)

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

Versus

The State of Tripura

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

For the Petitioner(s) : Mr. D.C Roy, Advocate.
Mr. A.K. Pal, Advocate.

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

Date of hearing and delivery of
Judgment & Order : 04.04.2024

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R(ORAL)**

सत्यमेव जयते

Heard Mr. A.K. Pal, learned counsel appearing for the petitioner as well as Mr. D. Sharma, learned Addl. G.A., appearing for the State-respondents.

2. This present writ petition has been filed under Article 226 of the Constitution of India seeking 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 consider the writ petition filed by the petitioner and also kind enough to set aside/quash/cancel inquiry report, provisional punishment order, final punishment order and order of the appellate authority;

(v) The petitioner also prays before Your Lordship to reinstate the rank of the petitioner as Naik from Rifleman (GD) which was step down by the Disciplinary authority by order dated 31/03/2023 for fair ends of justice.

(vi) To pass any order /orders as deem fit and proper by Your Lordship;

3. The brief fact of the case is that the petitioner is a government employee under respondent no.3 in TSR, 2nd Bn, in the capacity of Rifleman GD. In connection to the kidnapping of a lady and damaging of public property, an FIR was lodged by SDPO, West Tripura before the O/C of Bodhjungnagar P.S. against the petitioner and the case was registered as Bodhjungnagar P.S 32/2017 under Section 148/149/153(A)/153 B/332/353/436/427/436/188/120(B) of Indian Penal Code and Section 3 of the Prevention Damage to Public Property Act, 1994. After lodging the FIR, police filed charge sheet against the petitioner before the learned C.J.M, West Tripura, Agartala, and in the mean time, respondent no.3 i.e., the Commandant 2nd Battalion, TSR started departmental proceedings based on said allegation of the SDPO. Thereafter, a final punishment order was passed by the Disciplinary authority, and the respondent Commandant imposed major punishment against the petitioner of reduction in substantive

rank upon No. 98060475 NK (GD) Rabindra Debbarma, 13th Bn, TSR from existing rank "NAIK" to 'RIFLEMAN' with effect from the date of issue of the final order. Thereafter the petitioner filed an appeal before respondent no. 6 i.e., the Director General of Police,(AP Ops), West Tripura against the final punishment order dated 31/03/2023. But no fruitful result came from respondent No. 6. Hence the petitioner filed this writ petition before this Court seeking the above-mentioned reliefs.

4. Mr. A.K. Pal, learned counsel appearing for the petitioner submits that the petitioner has absented himself from the barrack only for one day and the punishment imposed is a major punishment and disproportionate to the charge levelled against the petitioner. As such, learned counsel urged this Court to allow this appeal.

5. On the other hand, Mr. D. Sharma, learned Addl. G.A., appearing for the respondents submits that the punishment imposed against the petitioner is just and proper and is in terms of the TSR Act, 1983. The conduct of the petitioner is liable to attract major punishment and the punishment imposed by the disciplinary authority which is confirmed by the final punishment order is proper and in accordance with law.

6. Heard and perused the evidence on record.

7. On the date of the incident i.e. on 31.07.2017 and in the intervening night of 31.07.2017 and 01.08.2017, the petitioner absented him unauthorisedly from the barracks and was found along with a female in a premise and thereafter, the police registered a case against him and other local residents. In connection to that said incident, mob of around 300 to 350 people came and attacked the police and other security personnel. The police apprehended that the petitioner had kidnapped the female.

8. In so far as the allegation of kidnapping is concerned, it is not for this Court to go into the issues since disciplinary proceedings and criminal proceedings will take care of the same. However, the main issue herein i.e., the imposition of punishment is concerned, the petitioner absented himself unauthorisedly, and instead of being in the campus, he left the campus. Thus considering the entire scenario, though part of it was not proved, the authorities have considered leaving of premises unauthorizedly as major misconduct and imposed punishment. The provisional punishment order has been confirmed by the final punishment order and the order ended in appeal. Since this is a disputed questions of facts and admittedly, the petitioner was out of

campus, this Court is not inclined to interfere. Accordingly, this present writ petition stands dismissed.

9. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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