

**HIGH COURT OF TRIPURA
AGARTALA
WA No. 10 of 2025**

The State of Tripura and others

.....Appellant(s)

Versus

Shri Lenin Debbarma

.....Respondent(s)

For the Appellant(s) : Kohinoor N. Bhattacharya, G.A.

For the Respondent(s) : Mr. Somik Deb, Sr. Advocate.
Ms. Riya Chakraborty, Advocate.
Mr. Abir Baran, Advocate.
Mr. Panna Lal Debbarma, Advocate.

Date of hearing and
delivery of Judgment
& Order : 29.04.2024.

Whether fit for reporting : Yes/No.

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

[T. Amarnath Goud, J]

Heard Mr. Kohinoor N. Bhattacharya, learned G.A. representing the appellant State. Also heard Mr. Somik Deb, learned senior counsel assisted by Mr. P.L. Debbarma, learned counsel appearing for the respondent.

[2] This present writ appeal has been filed under Chapter VIII, Rule -B(A) of the High Court of Tripura Rules, 2023 preferred against the Judgment and order dated 5th July 2024 in W.P (C) No. 595 of 2023 by the learned Single Judge.

[3] The brief fact of this case is that the petitioner(respondent herein) was appointed to the post of Riflemen GD on 03.11.1998, in the pay scale of Rs 3200-6030 and was discharging his duties. The appointment of the petitioner was made, under the Tripura State Civil Services (Revised Pay) Rules, 1999, which came into force with retrospective effect from 01.01.1996. Consequent upon promulgation of the said Revised Pay Rules, the petitioner had exercised his option on 01.01.2006, and his basic pay as on that date was fixed at Rs.3,830/-. It is contended in the appeal that previously, the petitioner was inflicted with a punishment of dies-non for two days. At that juncture, even though, the said punishment of dies-non was inflicted on to the petitioner, the pay admissible to the petitioner for those two days was not withheld, and the petitioner was duly paid off his pay and allowances.

[4] Accordingly, the petitioner was also granted the annual increment. Thereafter, on 18.10.2010, the petitioner was promoted to the rank of Havildar (GD) in substantive capacity, however, the said promotion did not fetch any financial upgradation to him. Thereafter, on and from 01.07.2006, the pay and allowance, were paid to him, and at no point of time, neither the pay of the petitioner was reduced, nor was he subjected to any recovery. Thereafter, the petitioner was promoted to the higher post of Naib Subedar (GD), with effect from 24.03.2023, and that his pay has been fixed at Rs.43,900/-, at Pay Level 10 & Cell 09 in Pay matrix, 2018 under the Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018, with date of next increment on 01.01.2024. The Commandant, 1st Battalion, Tripura State Rifles has passed an Order dated 05.06.2023 indicating that the petitioner did not complete more

than six months service in the revised pay structure as on 1st July 2006 due to two days 'Dies-non' w.e.f. 03.04.2006 to 04.04.2006 and as such, next increment in the revised pay structure is not admissible to him. For that reason, writ petition was presented by the petitioner which was disposed on 05.07.2024. Being aggrieved with the judgment dated 05.07.2024 the appellant has decided to prefer appeal before this Court seeking the following reliefs:

"(A) Admit the appeal;

(B) Call for the records;

(C) Issue notice to the respondent and after hearing the appeal be pleased to allow the same by setting aside the impugned judgment and order passed by the Hon'ble Single Judge.

AND

For this act of kindness the appellants as in duty bound shall ever pray."

[5] During the course of argument learned G.A vehemently contends to set aside the order passed by the learned Single Judge and also made an attempt to succeed the cases. Apart from the matter which is dealt with the learned Single Judge, there are two issues which fall for consideration of this Court.

[6] Firstly, what action the appellant authorities have initiated when they have notices two days (3rd & 4th April, 2006) unauthorised absence of the petitioner was found to treat his service as 'Dies-non'.

Nowhere, either in the record or in the counter affidavit there is a whisper about any action that is initiated against the petitioner for his unauthorised absence for two days.

[7] Secondly, the issue which falls for consideration is that the impugned order 5.06.2023 is passed making a pay fixation proceedings there in the said proceedings 'dies non' issue has also been indicated but there is no whisper in the proceedings that the petitioner was given an opportunity to explain by way of any show cause notice or calling for his explanation while taking decision as the same would have an adverse effect on his pay fixation.

[8] On this two grounds in addition to the matter dealt by the learned Single Judge, this Court finds that the proceedings issued is the one violating the principle of natural justice and for the action of the appellant authorities in not initiating any notice to the petition for 'dies-non', at this juncture, there cannot be a separate action without there being a primary action for the 'dies-non'. We find no infirmity in the order dated 05.07.2024 passed by the learned Single Judge in WP(C) 595 of 2023.

[9] In view of the above discussion, this Court feels that it is not open for the appellants for seeking any relief in this writ appeal and they are not entitled for any relief as sought for. Thus, the present writ appeal is liable to be dismissed and accordingly, the same is ordered.

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

B. PALIT, J

T. AMARNATH GOUD, J

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