

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C)No.285 of 2024

Sri Tapas Deb

S/O. Sri Shiba Prasad Deb,
Resident of Sabroom Nagar Panchayat,
Ward No.1, Sabroom, South Tripura,
PIN: 799 145

-----Petitioner (s)

Versus

1. The State of Tripura,

To be represented by the Secretary,
General Administration (Personnel & Training)
Department, Government of Tripura,
New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex,
Agartala, West Tripura, PIN:799 010

2. The Secretary,

General Administration (Personnel & Training)
Department, Government of Tripura,
New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex,
Agartala, West Tripura, PIN:799 010

3. The Secretary, General Administration,

(Administrative Reforms) Department,
Government of Tripura, New Secretariat Building,
New Capital Complex, Kunjaban,
P.S. New Capital Complex, Agartala,
West Tripura, PIN:799 010

4. The Secretary,

Home Department, Government of Tripura,
New Secretariat Building, New Capital Complex,
Kunjaban, P.S. New Capital Complex, Agartala,
West Tripura, PIN: 799 010

----- Respondents (s)

For Petitioner(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv. Mr. Dipjyoti Paul, Adv.
For Respondent(s):	:	Mr. Karnajit De, Addl. G.A.
Date of Hearing	:	11.09.2025
Date of delivery of Judgment and Order	:	26.09.2025
Whether fit for Reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Heard Learned Senior Counsel Mr. P. Roy Barman assisted by Mr. D. Paul, Learned Counsel representing the petitioner and also heard Mr. K. De, Learned Addl. G.A. appearing for the State-respondents.

02. The present writ petition is filed by the petitioner seeking the following relief/reliefs:

(i) Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby quashing and cancelling the Order, dated 09.02.2024, issued by the Secretary to the Government of Tripura, General Administration (Administrative Reforms) Department.

(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of mandamus and/or order/orders, direction/directions of like nature shall not be issued whereby quashing & cancelling the impugned Memorandum, dated 30.09.2024, issued by the Under Secretary, GA(AR) Department, Government of Tripura.

(iii) Make the rules absolute

(iv) Call for records pertaining to the instant Writ petition.

(v) Pass any further order/orders as this Hon'ble High Court considered fit and proper.

03. Taking part in the hearing Learned Senior Counsel appearing for the petitioner drawn the attention of the Court that the petitioner is presently serving under Tripura Police Service as Grade-II Officer posted as Assistant Commandant, 13th Battalion, TSR at Kanchanpur, North Tripura. The petitioner had joined Tripura Police Service on 01.10.2004 initially being appointed as Assistant Commandant, 2nd Battalion, TSR and the petitioner was posted as SDPO, Teliamura, Khowai in the year 2017. That initially the Principal Secretary to the Government of Tripura, General Administration (AR) Department issued one memorandum dated 24.01.2022 proposing to hold an enquiry against the petitioner under Rule-14 of the CCS (CCA) Rules, 1965. The substance of the imputation of misconduct or misbehavior was set out in the statement of Articles of Charge as mentioned herein below:

Article of Charge-I

Shri Tapas Deb, TPS Gr-II, the then SDPO Teliamura Sub Division, now Asstt. Commandant 13th Bn. TSR, during the period from 01.04.2012 to 31.06.2018 has failed to maintain absolute integrity and devotion to duty that as per inquiry report submitted by the SP(Vig.) vide letter No.223/SP/VIG/Con/2021 dated 13.09.2021, and amount of Rs.2,32,90,546/- only was credited to the accounts of Shri Tapas Deb and his wife, Smt. Pinaki Lodh, Staff Nurse of Health Department which is disproportionate to known source of income. An amount of Rs.2,11,86,895/- out of Rs. 2,32,90, 546/- was credited to the account of Shri Tapas Deb and the balance Rs.21,03,651/- was credited in the account of Smt. Lodh.

By the above acts, Shri Tapas Deb, TPS Gr-II, has committed gross misconduct and failed maintain absolute integrity and thus, violated Rule 3 of the Tripura Civil Services (Conduct) Rules, 1988.

Article of Charge-II

Shri Tapas Deb, TPS Gr-II, the then SDPO Teliamura Sub-Division, now Asstt. Commandant 13th Bn. TSR, during the period from 01.04.2012 to 31.06.2018 has failed to maintain absolute integrity and devotion to duty that as per inquiry report submitted by the SP (Vig.) vide letter No.223/SP/VIG/Con/2021 dated 13.09.2021 that, Shri Deb has disposed of immovable property worth Rs.3,30,000/- (Rupees Three lakhs thirty thousand) without obtaining prior sanction from the authority which is in violation of Rule 18(2) of the TCS (Conduct) Rules, 1988.

By the above acts, Shri Tapas Deb, TPS Gr-II, has committed gross misconduct and failed to maintain absolute integrity and thus, violated Rule-3 & 18(2) of the TCS (Conduct) Rules, 1988.

Article of Charge-III

Shri Tapas Deb, TPS Gr-II, the then SDPO Teliamura Sub Division, now Asstt. Commandant 13th Bn. TSR, during the period from 01.04.2012 to 31.06.2018 has failed to maintain absolute integrity and devotion to duty that as per inquiry report submitted by the SP(Vig.) vide letter No.223/SP/VIG/Con/2021 dated 13.09.2021 that, Shri Deb has taken Rs.60,00,000/- (Rupees Sixty Lakhs) only as Home Loan from ICICI Bank Ltd, as a co-applicant and also agreeing to repay the monthly EMI of Rs.44,784/-, without prior approval from the competent authority as required under Rule-16(4)(i)(a) of the Tripura Civil Services (Conduct) Rules, 1988.

By the above acts, Shri Tapas Deb, TPS Gr-II, has willfully committed gross misconduct and failed to maintain absolute integrity and thus he has violated Rule-3 & 16(4)(i)(a) of the Tripura Civil Services (Conduct) Rules, 1988.

Article of Charge-IV

Shri Tapas Deb, TPS Gr-II, the then SDPO Teliamura Sub Division, now Asstt. Commandant 13th Bn. TSR, during the period from 01.04.2012 to 31.06.2018 has failed to maintain absolute integrity and devotion to duty that as per inquiry report submitted by the SP(Vig.) vide letter No.223/SP/VIG/Con/2021 dated 13.09.2021, Shri Deb had purchased Crypto currency for Rs.15,00,000 (Rupees Fifteen lakhs) and had invested in shares without prior permission of the competent authority and violated Rule 16(1) of the Tripura Civil Services (Conduct) Rules, 1988. By the above acts, Shri Tapas Deb, TPS Gr-II, has willfully committed gross misconduct and failed to maintain absolute integrity and thus he has violated Rule-3 & 16(1) of the Tripura Civil Services (Conduct) Rules, 1988.

The petitioner relied upon the said memorandum dated 24.11.2022 marked as Annexure-1.

04. According to Learned Senior Counsel thereafter the Principal Secretary, Government of Tripura GA(AR)

Department being the disciplinary authority by order dated 31.05.2022 appointed Commissioner of Departmental Inquiries as the inquiring authority to inquire into the charges framed against the petitioner and one Shri Ajoy Kumar Das, TPS Gr-II was appointed as the Presenting Officer to present the case on behalf of the Government before the inquiring authority. The copy of the order dated 31.05.2022 is annexed with this writ petition marked as Annexure-2.

05. On 30.11.2022 the inquiring authority after completion of his inquiry proceeding submitted report to the disciplinary authority. Copy of this order dated 30.11.2022 is annexed with the petition marked as Annexure-3. Further according to Learned Senior Counsel the disciplinary authority without recording any disagreement with the inquiry report and without giving any reasonable opportunity to the petitioner issued an order dated 15.05.2023 further appointed Shri Ajoy Kumar Das as the Presenting Officer (Annexure-4) and without affording any copy of the finding dated 29.11.2022 to the petitioner the Disciplinary Authority vide order dated 15.05.2023 again arbitrarily appointed Dr. Sandeep R. Rathod, IAS, Secretary RD Department to re-inquire into the charges framed against the petitioner towards further inquiry. A copy of the order is annexed with this petition marked as Annexure-5.

06. After that the petitioner due to arbitrary action of the respondents had no other alternative but to approach

this High Court by filing one Writ Petition bearing No.WP(C) 396 of 2023 seeking quashing of the order dated 15.05.2023 as well as the inquiry initiated by memorandum dated 24.01.2022 along with further direction upon the respondents to provide the petitioner with a copy of the inquiry report submitted by letter dated 30.11.2022. After that, this High Court by order dated 03.07.2023 in WP(C) No.396 of 2023 suspended the operation of the impugned order for further inquiry dated 15.05.2023. Copy of the order of the High Court dated 03.07.2023 is annexed with this petition marked as Annexure-6.

07. It was further submitted that after that the Special Secretary to the Government of Tripura GA(AR) Department again issued order on 19.11.2023 cancelling the order of appointment of the inquiring authority by order dated 15.05.2023. Copy of the order dated 19.10.2023 is annexed with this petition marked as Annexure-7. But surprisingly while the writ petition was pending the Secretary, GA(AR) Department, Government of Tripura (Disciplinary Authority) again issued order dated 22.11.2023 appointed Shri Saurav Sen, TPS Gr-II, Dy. SP(PHQ) as Presenting Officer to present the case on behalf of the Government before the inquiring authority. Copy of the order dated 22.11.2023 is annexed with this petition marked as Annexure-8.

08. Thereafter this High Court by order dated 23.11.2023 dismissed WP(C)396/2023 as the impugned

order under challenge had been cancelled and as such nothing survived for adjudication and gave an opportunity to the petitioner that if any fresh proceeding is issued the petitioner would be at liberty to challenge the same. Copy of the order dated 23.11.2023 is annexed with this petition marked as Annexure-9. On 09.02.2024 the Secretary to the Government of Tripura GA(AR) Department being the Disciplinary Authority again issued an order dated 09.02.2024 that the findings of the IA was carefully examined in the GA(AR) Department and the Disciplinary Authority had disagreed with the findings of the Inquiring Authority and decided that an Inquiring Authority should be appointed to further enquire into the case on the ground that on examination of the enquiry report submitted by the Inquiring Authority, it appeared that the inquiry was not conducted by the IA as a summary trial wherein the IA in search of concrete evidence against the AO had concluded the enquiry considering the accused officer not guilty of charges framed against him and as per CCS(CCA) Rules, 1965 Disciplinary Proceeding has to be conducted and concluded considering the preponderance of probability and IA had concluded the case giving the benefit of doubt to A.O. and remitted the case back to the Commissioner of Departmental Inquiries to further enquire in to the charges framed against the petitioner. Copy of the impugned order dated 09.02.2024 is annexed with the writ petition as Annexure-10.

09. According to Learned Senior Counsel the order dated 09.02.2024 was passed by the Disciplinary Authority in complete disregard and disobedience of the specific mandate of Rule 15(1) & Rule 15(2) of CCS (CCA) Rules, 1965. Although the inquiring authority gave a clean chit after full-fledged inquiry but the Disciplinary Authority did not give any cogent reasons in writing as to why the Disciplinary Authority was not agreeable to the inquiry report in terms of Rule 15(2). Even the Disciplinary Authority did not forward a copy of the inquiry report together with its own tentative reasons for disagreement with the findings of inquiring authority on any article of charge to the petitioner, so as to enable him to submit his written representation as required under Rule 15(2). It was further submitted that on 30.09.2024, the Under Secretary, GA(AR) Department, Government of Tripura who was not authorized to issue any memorandum issued an impugned memorandum whereby arbitrarily and illegally remitted the matter back to the CDI for further inquiry from the stage of examination of prosecution witness which was issued in violation of Rule-15(2) of the CCS(CCA) Rules, 1965. Learned Senior Counsel further submitted that the impugned memorandum dated 30.09.2024 was issued as an unilateral order for re-inquiry without taking into consideration the submission of the petitioner or without even waiting for representation of the petitioner. Thus infringed the constitutional rights of the petitioner available

under Article 14 and 21 of the Constitution of India hence Learned senior Counsel urged for allowing this writ petition by cancelling the memo dated 09.02.2024 and subsequent memo dated 30.09.2024 issued by Under Secretary, GA(AR) Department, Government of Tripura.

10. In course of hearing Learned Senior Counsel also relied upon one citation of this High Court in **Dhiman Singha vs. State of Tripura and Ors.** reported in **(2015) 2 TLR 900** wherein in para No.7, 10, 11 and 12 this High Court observed as under:

"7. Sub-Rule (1) of Rule 15 envisages a situation where the disciplinary authority is itself not the inquiring authority. On going through the report of the inquiry officer, if the disciplinary authority finds that further inquiry proceedings should be held then it must record its reasons for coming to such a finding and thereafter it must remit the case to the inquiring authority for further inquiry and report the matter to the disciplinary authority. Therefore, what is contemplated under this sub-rule is a further inquiry which obviously means a continuation of the old inquiry but not a fresh or de novo inquiry. The language used is very specific that the disciplinary authority after recording its reasons in writing can remit the case to the inquiry officer. Remission of a case means that it must be sent back to the same authority to proceed further in accordance with law. Officers may change but the authority must remain the same. The words, 'remit' and 'further inquiry' leave no manner of doubt that what is contemplated under Rule 15(1) is the continuation of the old inquiry by the same authority which conducted the inquiry earlier.

10. Rule 15(2) deals with a different situation. This contemplates a situation where on the evidence on record and without any further evidence being recorded the disciplinary authority is of the view that the finding recorded by the inquiring officer exonerating the delinquent official is against the evidence of law. In such a case, the disciplinary authority is directed to indicate and give its prima facie or tentative reasons for disagreeing with the report of the inquiring authority and then communicate the reasons to the delinquent official giving him a chance to put forth his case and answer the queries of the disciplinary authority.

11. Thereafter, the disciplinary authority is required not only to consider the inquiry report but also its own tentative reasoning as well as the reply given by the delinquent official. After considering all three the disciplinary authority has a right to form his own opinion on the basis of the evidence. This does not envisage the holding of any fresh inquiry but only on the basis of the

evidence already recorded by the inquiring officer the action is to be taken.

12. There is no rule which permits the disciplinary authority to start a fresh inquiry. In the present case, the disciplinary authority did not follow any of the above two options. In case the disciplinary authority was of the view that the statements of some material witnesses had not been recorded or that some material evidence had not been taken into consideration then the disciplinary authority should have recorded these reasons and then could have remitted the matter to the inquiring officer to carry out the further enquiry in terms of Rule 15(1). This has not been done. What has been done is to order a fresh inquiry officer and start de novo inquiry which is not permissible under the law. The procedure followed is totally illegal. We, therefore, have no option but to set aside the entire inquiry proceedings and quash the order dismissing the petitioner from service."

Relying upon the said citation Learned Senior Counsel submitted that this present case is squarely covered by the judgment of the Division Bench of this High Court and urged for allowing this writ petition.

11. The State-respondents contested the writ petition by filing counter-affidavit and additional counter-affidavit denying the assertion of the petitioner and in para Nos.16, 17 and 18 the State-respondents took the plea as under:

"16. That, with regard to para 15 of the Petition, I say that, it is correct that the Hon'ble Court vide order dated 23.11.2023 dismissed the WP(C) No.396 of 2023 as the impugned order under challenge had been cancelled and as such nothing survived for adjudication. The Hon'ble Court also made it clear that in the event if any fresh proceeding is issued the petitioner would be at liberty to challenge the same.

17. That, with regard to para 16 of the Petition, I say that, it is fact that on disposal of the WP(C) 396 of 2023 filed by the Petitioner, the order dated 09.02.2024 appointing the Commissioner of Departmental Inquiries (CDI) was issued with valid reasons for further inquiry into the case as per Rule 15(1) of CCS(CCA) Rules, 1965.

18. That, with regard to para 17 of the Petition, I say that, it is correct that the Disciplinary Authority passed the order dated 09.02.2024 with reasons and remit the case for further inquiry as per rules 15(1) of the CCS(CCA) Rules, 1965.

Besides, in compliance of Rule 15 of CCS (CCA) Rules, 1965 a copy of the findings was served to the Petitioner/Charged Officer vide Memo dated 18.07.2024 seeking his representation. It is also pertinent to mention

here that through a distinct and separate order dated 30.09.2024, the reason of disagreement with the former inquiry report and the necessity of further inquiry was also communicated to the concerned charged officer/Petitioner."

The State-respondents also relied upon some documents which were marked as Annexure R/1 and Annexure R/2. However the State-respondents admitted the facts of earlier proceeding and the filing of case which was filed by the petitioner by providing documentary evidence.

12. Thereafter the State-respondents also filed additional counter-affidavit and in the additional affidavit in para No.5 the State-respondents took the following pleas:

"5. That, with regard to para 20(A) of the amended writ petition, I say that, through a distinct and separate order dated 30.09.2024, the reason of disagreement with the former inquiry report and the necessity of further inquiry was also communicated to the petitioner. The said Memo dated 30.09.2024 so assailed by the Petitioner was issued by order of the Governor and not an order of the under secretary in his capacity as such. Accordingly, the petitioner had submitted one representation dated 09.10.2024. Thus the contentions of the petitioner that no opportunity was given to the petitioner to file representation against the memo dated 30.09.2024 is false.

Copy of the representation dated 09.10.2024 of the petitioner is annexed hereto and marked as Annexure R/1."

13. However, at the time of hearing Learned Addl. G.A. appearing for the State-respondents took the plea that the memorandum was issued in accordance with the law by the Under Secretary, Government of Tripura as per rules of executive business. He also submitted that there was no infirmity in the memorandum issued by the Under Secretary, Government of Tripura and furthermore as alleged by the petitioner that no scope was given to furnish him the representation but it is on record that after receipt of copy of memorandum the present petitioner submitted

representation to the Government. So finally Learned Addl. G.A. submitted that there is no merit in the petition filed by the petitioner and furthermore it was the prerogative of the Disciplinary Authority to issue order for further inquiry and there was no infirmity to that and finally urged for dismissal of the writ petition. It was further submitted by Learned Addl. G.A. that although in course of hearing Learned Senior Counsel took the plea that the petitioner was acquitted from the criminal charge which cannot be a ground for dismissal of the departmental proceeding and in this regard so many decisions of the Hon'ble Supreme Court are there and again submitted that there is no merit in this petition and the same is liable to be dismissed with costs.

14. I have heard detailed submission of both the sides and perused the documents submitted by both the sides along with the writ petition as well as the counter-affidavit. It is to be noted here that After receipt of the reply filed by the State-respondents the writ petitioner approached this Court for amendment of the writ petition and accordingly after hearing both the sides the prayer of the petitioner for amendment of writ petition was allowed and accordingly the writ petitioner filed amended writ petition before this Court.

15. Now after hearing both the sides at this stage this court is to decide whether the initial memorandum dated 09.02.2024 and subsequent memorandum dated 30.09.2024 issued by the respondents authority were

lawfully issued in accordance with the relevant provision of Rule-15(1) and 15(2) of CCS(CCA) Rules, 1965 or not. Since the aforesaid memorandums are relevant for consideration in this writ petition. So without going into the details of other issues which are not disputed by the State-respondents let us examine as to whether the aforesaid documents are required to be interfered with by exercising writ jurisdiction under Article 226 of the Constitution of India by this Court or not. Now for the sake of convenience let me mention below the relevant provision of Rule 15 of CCS(CCA) Rules, 1965 which provides as under:

"Action on the inquiry report

(1) The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be.

[(2) The Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant.

(2-A) The Disciplinary Authority shall consider the representation, if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in sub-rules (3) and (4).]

(3) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in Clauses (i) to (iv) of Rule 11 should be imposed on the Government servant, it shall, notwithstanding anything contained in Rule 16, make an order imposing such penalty:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken

into consideration before making any order imposing any penalty on the Government servant.

(4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in Clauses (v) to (ix) of Rule 11 should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed:

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant."

From the aforesaid rules it appears that as per rule 15(1) if the Disciplinary Authority is not the inquiring authority may for reasons to be recorded in writing remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry in accordance with the provisions of Rule 14, as far as may be. Thus it appears that there is scope for further inquiry if the disciplinary authority is not satisfied with the report of the inquiring authority and in that case the disciplinary authority may for reasons to be recorded in writing remit the case to the inquiring authority for further inquiry and report. There is no dispute to that. Here in the case at hand it appears that disciplinary authority was not satisfied with the report of the inquiring authority and as such remitted back the matter to the inquiring authority for further inquiry and report.

Now on perusal of the Rule 15(2) it appears that Rule 15(2) is different from Rule-15(1) which provides that the Disciplinary Authority shall forward or cause to be forwarded

a copy of the report of the inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charges to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority. Here in the given case at hand at the time of hearing Learned Senior Counsel appearing for the petitioner drawn the attention of the Court that since in this case the disciplinary authority was not the inquiring authority and the disciplinary authority remitted back the matter to the inquiring authority for further inquiry. But surprisingly at the time of referring the matter the copy of the report of the inquiring authority together with the own tentative reasons for disagreement if any, with the findings of the inquiring authority on any article of charge of the government servant were not communicated to the present petitioner. Thus he was deprived of his legal right. In this regard Learned Addl. G.A. appearing for the State-respondents drawn the attention of the Court that this opportunity was given and the present petitioner submitted his representation to the disciplinary authority within fifteen days so at this stage there is no scope on the part of the present petitioner to take this plea.

16. I have gone through the relevant documents submitted by both the parties. I have also gone through the citation of the Division Bench of this High Court referred by Learned Senior Counsel appearing for the petitioner. In para-10 of the said citation this Hon'ble High Court observed that where on the evidence on record and without any further evidence being recorded the disciplinary authority is of the view that the finding recorded by the Inquiring Officer exonerating the delinquent official is against the evidence of law. In such a case, the disciplinary authority is directed to indicate and give its *prima facie* or tentative reasons for disagreeing with the report of the inquiring authority and then communicate the reasons to the delinquent official giving him a chance to put forth his case and answer the queries of the disciplinary authority and thereafter as per para-11, the disciplinary authority is required not only to consider the inquiry report but also its own tentative reasoning as well as the reply given by the delinquent official and after considering all three the disciplinary authority has a right to form his own opinion on the basis of the evidence. This does not envisage the holding of any fresh inquiry but only on the basis of the evidence already recorded by the Inquiring Officer the action is to be taken. But here in the case at hand on perusal of the memo dated 09.02.2024 i.e. Annexure-10 of the writ petition and memo dated 30.09.2024 [Annexure-R/2] relied upon by the State-respondents it appears to this

Court that the directions of the Division Bench in the aforesaid case was not followed in the present case at hand by the disciplinary authority rather the disciplinary authority mechanically issued the memorandum without following the mandate of law which caused grave injustice to the present petitioner. Further there is no rule which permits disciplinary authority to start a fresh inquiry. In the present case the disciplinary authority did not follow any of the above two options rather the disciplinary authority came to the observation that the inquiry was not conducted by IA as summary trial where in the IA in search of the concrete evidence against the I.O. has concluded the inquiry considering the accused officer not guilty of the charges find against him and as per CCS(CCA) Rules, 1965 disciplinary proceeding conducted and concluded considering the preponderance of probability and thus I.O. concluded the case giving benefit of doubt to the I.O. (memo dated 09.02.2024 Annexure-10). Further in memo dated 30.09.2024 it was the observation of the under Secretary, GA(AR) Department that as per Rule 15(1) if the Disciplinary Authority is not satisfied with the inquiry report it may remit the case to the Inquiring Authority for further inquiry and therefore based on the deposition made by the hostile witness the matter is remitted back to CDI for further inquiry from the stage of examination of prosecution witnesses. Thus it appears that the disciplinary authority in passing the orders did not actually follow the rule as

contained in 15(1) and 15(2) of the CCS(CCA) Rules and also the observation passed by this Hon'ble High Court in para No.10 and 11 and ordered for a fresh inquiry i.e. *De Novo* inquiry from the stage of examination of prosecution witnesses which was not permissible under the law and the procedure followed according to this Court was totally illegal. As such, this Court is of the considered opinion that the subsequent order for fresh inquiry by the aforesaid memo dated 09.02.2024 and memo dated 30.09.2024 are illegal, inoperative and not binding upon the petitioner and the same were not issued in accordance with the relevant rules of the CCS(CCA) Rules, 1965 and also in violation of the judgment delivered by this High Court in the aforementioned case. As such in the considered view of this Court the petitioner has got a *prima facie* case and there is no scope to proceed for fresh inquiry as ordered by the State-respondents against the petitioner. It is also necessary to be mentioned here that in course of hearing Learned Senior Counsel appearing for the petitioner drawn the attention of this Court that the criminal case filed against the petitioner was ended in final report and by order dated 18.01.2025 in NCC P.S. Case No.47 of 2021 passed by the Learned Special Judge, Court No.4, West Tripura, Agartala accepted the final report submitted by I.O. and challenging that order dated 18.02.2025, no appeal has been preferred by the State-respondents against the petitioner of this case.

17. In this regard Hon'ble the Supreme Court in a judgment in **Ram Lal vs State of Rajasthan and Others** reported in **(2024) 1 SCC 175** in para Nos. 11 and 12 observed as under:

"11. We are also conscious of the fact that mere acquittal by a criminal court will not confer on the employee a right to claim any benefit, including reinstatement. (See Deputy Inspector General of Police and Another v. S. Samuthiram, (2013) 1 SCC 598).

12. However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the court in judicial review concludes that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge, the Court in judicial review can grant redress in certain circumstances. The court will be entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive. Each case will turn on its own facts. [See G.M. Tank vs. State of Gujarat & Others, (2006) 5 SCC 446, State Bank of Hyderabad vs. P. Kata Rao, (2008) 15 SCC 657 and S. Samuthiram (2013) 1 SCC 598]."

Here in the case at hand although in the criminal prosecution final report was submitted and in the departmental proceeding some article of charges were framed and in both the matters the allegations are almost identical and similar in nature. In the criminal proceeding final report was accepted by order dated 18.01.2025 by Learned Special Judge, Court No.4, West Tripura, Agartala against NCC PS Case No.47 of 2021 and in the departmental proceeding the inquiring authority found the petitioner not guilty to any of the article of charge as framed against him So the observation of the Hon'ble Supreme Court in the aforementioned case can be applied in this case and relied upon the same principle. It appears to this court that in the given facts and circumstances of the case the memo dated

09.02.2023 (Annexure-10) of the writ petition and the subsequent memo dated 30.09.2024 issued by the Under Secretary, Government of Tripura (Annexure R/2) have got no legal basis to stand against the present petitioner of this case.

In the result, the petition filed by the petitioner stands allowed and disposed of.

The memo dated 09.02.2024 (Annexure-10 to the writ petition) and the subsequent memo dated 30.09.2024 issued by Under Secretary on behalf of the Governor stands set aside and accordingly the same are quashed.

Pending application if any, stands disposed of.

JUDGE



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