

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.53 of 2024

1. **The State of Tripura,**
Represented by its Principal Secretary, Department of General Administration (AR), Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Sadar, West Tripura.
2. **The State of Tripura,**
Represented by its Principal Secretary, Department of General Administration (Personal & Training), Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Sadar, West Tripura.
3. **The Chief Secretary,**
Government of Tripura, New Secretariat Complex, Gurkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub Division- Sadar, West Tripura.
4. **The Under Secretary,**
to the Government of Tripura, Department of General Administration (Personal & Training), New Secretariat Complex, Gurkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Sadar, West Tripura.
5. **The Director General of Police**
Government of Tripura, Akhaura Road, P.O. Agartala, P.S- West Agartala, District-West Tripura, PIN-799001
6. **The Commissioner of Departmental Inquires**
Government of Tripura, PN Complex, Gurkhasbasti, Agartala, P.O.-Kunjaban, P.S.- New Capital Complex, Sub- Division- Sadar, West Tripura

.....Appellant (s)

Versus

Sri Manik Lal Majumder

TPS, Grade-I (Retd.), son of Late Balahari Majumder, resident of Ananya Complex, near Bangladesh Visa Office, Agartala, District- West Tripura.

.....Respondent (s)

For Appellant (s)	:	Mr. D. Sarma, Addl. G.A				
For Respondent (s)	:	Mr. P. Roy Barman, Sr. Adv. Mr. S. Bhattacharjee, Adv. Mr. K. Chakraborty, Adv.				
Date of hearing & delivery of Judgment & Order	:	06.08.2025				
Whether fit for reporting	:	<table><tr><td>Yes</td><td>No</td></tr><tr><td></td><td>✓</td></tr></table>	Yes	No		✓
Yes	No					
	✓					

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

Heard counsel for the appellants-State and counsel for the respondent.

[2] This writ appeal is preferred against the judgment of the learned Single Judge dt. 05.02.2024 in W.P.(C) No.340 of 2023.

[3] The petitioner was employed in the Tripura Police Service, Grade-I as an Additional Superintendent of Police (CID).

[4] A charge memo was issued to him on 04.11.2010 mentioning four articles of charge, and giving particulars thereof.

[5] The respondent was also convicted in a criminal case by a Sessions Court and on the basis of the said conviction, he was dismissed from service on 25.06.2013, but the said conviction was set aside by the High Court on 02.05.2019.

[6] In the meantime, the respondent was superannuated on 30.06.2014.

[7] On 20.06.2020, the appellants set aside the dismissal order of the respondent. The disciplinary inquiry was commenced thereafter against the respondent.

[8] The Commissioner of Departmental Inquiries was appointed as the Inquiry Officer on 04.02.2021.

[9] The admitted case of both sides is that in the said disciplinary inquiry, the respondent was held not guilty of the charges. The said inquiry report was submitted to the Disciplinary Authority along with the record, and it is an admitted fact that the Disciplinary Authority on perusal of the report, disagreed with the inquiry report, assigning certain reasons.

[10] However, the procedure as per Rule 15(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 which mandates that a Disciplinary Authority, disagreeing with the inquiry report should forward the copy of the said inquiry report along with his own tentative reasons for disagreement to the respondent, who shall be required to submit, if he so desires, a written representation or submission to the disciplinary authority within fifteen days, was not followed.

[11] The Inquiry Officer originally appointed, stood replaced by another person in the meantime, who informed the same to the Disciplinary Authority, and the Disciplinary Authority overlooking Rule 15(2) referred to supra permitted the new Inquiry Officer to continue the enquiry, and the said Inquiry Officer submitted a report on 16.03.2022 holding the respondent guilty of three charges.

[12] The Disciplinary Authority agreed with the findings of the Inquiry Officer, and passed an order dt. 25.05.2022, imposing major penalty of 30% cut in pension payable to the respondent for a period of 10 years under Rule 9 of the CCS (Pension) Rules, 1972 [wrongly mentioned as CCS (CCA) Rules, 1972 in the said order, which was later corrected on 13.05.2024].

[13] The respondent then preferred an appeal to the Appellate Authority (being the Chief Secretary), but the said appeal was also rejected on 16.12.2022.

[14] Assailing the punishment imposed on him as well as the order of the Appellate Authority, and seeking other reliefs, the respondent filed W.P.(C) No.340 of 2023 before this High Court.

The judgment of the learned Single Judge

[15] The learned Single Judge noted that Rule 15(2) of the CCS (CCA) Rules, 1965 had not been followed and that under the CCS (CCA) Rules, the appellants cannot impose 30% deduction on pension of the respondent. He therefore set aside the orders passed by the appellants and directed the appellants to release all consequential benefits/amounts which the respondent is entitled to within 2[two] months from the date of the order.

Consideration by the Court

[16] Counsel for the appellants contended that the punishment of cut in pension can be imposed under the CCS (Pension) Rules, [Rule 9] but erroneously in the order dated 25.05.2022, passed by the Disciplinary Authority, while quoting Rule 9 instead of mentioning CCS (Pension) Rules, it

was wrongly mentioned as CCS (CCA) Rules, and the same was corrected later on 13.05.2024.

[17] However, he did not dispute the fact that Rule 15(2) of the CCS (CCA) Rules, 1965 had not been complied with.

[18] As pointed out above, the requirement of the said Rule is that if the Disciplinary Authority were to disagree with the findings or inquiry report of the Inquiry Officer, he has a bounden duty to furnish a copy of the inquiry report together with his own tentative reasons for disagreement with the findings of the Inquiry Officer on any article of charges to the respondent, and he should ask the respondent to submit a written representation within fifteen days.

[19] Counsel for the appellants contended that the learned Single Judge was not right in setting aside the orders passed by the appellants and directing them to release all consequential benefits/amounts which the respondent was entitled to because if there is non-compliance of Rule 15(2) of CCS (CCA) Rules, the learned Single Judge should have remitted the matter back to the Disciplinary Authority to comply with Rule 15(2) of the CCS (CCA) Rules.

[20] We find force in the said submission. If there is non-compliance with a mandatory rule such as Rule 15(2) of the CCS (CCA) Rules, and the order of the Disciplinary Authority imposing punishment is defective on the said ground, the proper course of action for the learned Single Judge was to set aside the order of the Disciplinary Authority and the Appellate Authority, and remit the matter back to the Disciplinary Authority to comply with the said Rule which is said to be violated.

[21] In this view of the matter, the appeal is allowed; the order of the learned Single Judge is set aside; the order dt. 25.05.2022 of the Disciplinary Authority as modified on 13.05.2024 is set aside; the order of the Appellate Authority dt. 16.12.2022 is also set aside; the matter is remitted to the Disciplinary Authority with a direction to him to consider the inquiry report initially given by Shri Rabindra Reang, IAS; and if he disagrees with it, to furnish a copy of the said inquiry report along with his reasons for disagreement to the respondent within 4[four] weeks from today and, requiring the respondent to submit his representation/submission thereon within 2[two] weeks thereafter; and then pass a reasoned order in accordance with law and communicate it to the respondent. Since the respondent has already retired from service, it is expected that the proceedings will be concluded as expeditiously as possible.

The appeal is allowed as above.

Pending interlocutory application(s), if any, stands disposed of.

(S. DATTA PURKAYASTHA, J)

(M.S. RAMACHANDRA RAO, CJ)