

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.376 of 2024

1. Kanwaljit Yadav,

S/o:- Lt. Rajkaran,
R/O:- Vill- Phideri, P.O. MajraSheoraj,
Rewari, Haryana, PIN;123401

.....Petitioner(s).

Versus

1. The State of Tripura

Represented by the Secretary, Department of Home,
Government of Tripura, New Secretariat Building, New Capital
Complex, Kunjaban, P.S. New Capital Complex, Agartala, West
Tripura, PIN: 799010

2. The Director General of Police,

Police Head Quarters, Govt. of Tripura, Fire Brigade Chowmuhani,
P.O- Agartala, West Tripura, Pin-799001.

3. The Inspector General of Police (TSR & OPS),

Government Of Tripura, Agartala, West Tripura.

4. The Commandant, 3rd Bn TSR,

Government of Tripura, PTS Wazirabad, Delhi, 110090

5. The Commandant, 5th Bn TSR(IR-I),

HQr, Daluma, Amarpur, Gomati, Tripura

6. The Commandant, 8th Bn TSR,

Govt. Of Tripura, Lalcherra, Chailengta, Dhalai.

.....Respondent(s).

For Petitioner(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv.
	:	Mr. Samarjit Bhattacharjee, Adv.

For Respondent(s)	:	Mr. Mangal Debbarma, Addl. G.A.
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Date of hearing &
date of delivery of Judgment : **26.06.2025**

Whether fit for reporting : **No**

_B_E_F_O_R_E_

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

Heard Mr. Purusuttam Roy Barman, learned senior
counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel

appearing for the petitioner. Also heard Mr. Mangal Debbarma, learned Addl. G.A. appearing for the State-respondents.

[2] The petitioner was serving as Subedar (Head Clerk) in 3rd BN TSR and against him vide memorandum dated 16.05.2023 (Annexure-5) a departmental proceeding was initiated with the following charge:

Statement of Article of charge against Shri.

Kanwaljit Yadav, 3rd BN TSR

Article of charge No.1

Sub (Head Clerk) Shri. Kanwaljit Yadav, 3rd BN TSR is charged with violation of service rules. He has entered into transactions of money from his salary bank account which required due intimation to authority. He failed in intimating the same to the competent authority.

By the above act, he has violated service rules which amount to an act unbecoming of a government servant.

[3] For further useful reference, the statement of imputation, list of the documents to be relied upon and the list of witness to be examined in the departmental proceedings, are also described hereunder:

" Statement Of Imputation In Supprot Of The Article Of Charge Framed Against Sub (Head Clerk) Shri. Kanwaljit Yadav, 3rd BN TSR

Sub (Head Clerk) Shri. Kanwaljit Yadav, 3rd BN TSR made transfers/deposited in investment funds in between 2021 to 2023 without the knowledge of his controlling authority. Therefore his transactions were not related to domestic purposes.

He has thus, entered into transactions of money from his salary bank account which required due intimation to authority. He failed in intimating the same to the competent authority.

By the above act, he has violated service rules which amount to an act unbecoming of a government servant.

List of documents based on which the Article of charge framed against Sub (Head clerk) Shri Kanwaljit Yadav, 3rd BN TSR, Tripura is proposed to be sustained.

Salary Bank Account statement of Sub (Head Clerk) Shri Kanwaljit Yadav, 3rd BN TSR for a period of 2021 to 2023.

List of witnesses by whose statements the article of charge framed against the Sub (Head Clerk) Shri Kanwaljit Yadav, 3rd BN TSR, Tripura is proposed to be sustained.

Nil."

[4] After initiation of such proceeding the necessary enquiry commenced against the petitioner and after conclusion of the same, the Enquiry Authority submitted his report dated 14.08.2023 to the Disciplinary Authority. The entire findings of the Enquiry Authority is extracted below for convenience of discussions.

"6. Findings:-

During the course of enquiry I have examined the available records and heard the Charged Official in person (Statement in Annexure-E2) and recorded his statements of the charged official.

On examination of the charged official it is revealed that the Charged Official namely Sub (Head Clerk) Shri Kanwaljit Yadav of 8th Bn TSR was posted in 5th BN TSR Head Quarter, Duluma, P.S:-Birganj as Subedar (Accountant) in the year 2021. His basic pay / salary as on 17-03-2021 was Rs.66,000 (Rupees Sixty six thousand) only and he applied for loan of Rs.7,00,000/-(Rupees Seven Lakhs) only from State Bank of India, Amarpur Branch in the month of March, 2021 for which requisite certificate of DDO of his Unit was

obtained and the amount of loan as aforesaid was credited to his salary account on 17-03-2021. He paid all the remaining instalments of his previous loan taken from State Bank of India, Amarpur Branch, amounting to Rs.6,06,710/- (Rupees Six Lakhs six thousand seven hundred ten) only with the loan credited to his salary account on 17-03-2021 as aforesaid.

He also stated that he did not intimate his authority in respect of his loan amounting to Rs.7,00,000/- (Rupees Seven Lakhs) only taken from State Bank of India, Amarpur Branch and credited to his salary account on 17-03-2021 nor did he inform about the amount of Rs.6,06,710/- (Rupees Six Lakhs six thousand seven hundred ten) only debited from his salary account in payment of his remaining instalments of his previous loan in prescribed format under Rule 18(3) of the CCS(CCA) Rule. (Statement of the Charged Official is enclosed in Annexure-F). The said format is shown to him by the Presenting Officer of the instant D.P. wherein the Charged Official admitted that he did not intimate the Competent Authority in this prescribed format by putting his acknowledgement thereon. (Annexure-G)

The Charged Official submitted his further written statement of defence (Annexure-F) wherein he narrated the details of his transactions in salary account exceeding his two months basic pay an amount of loan of Rs.7,00,000/-(Rupees Seven Lakhs) and payment of Rs.6,06,710/- (Rupees Six Lakhs six thousand seven hundred ten) towards his previous loan, but he relied upon the fact that he submitted the bank loan application through DDO 5th Bn TSR and Branch Manager of the State Bank of India, Amarpur Branch intimated the DDO, 5th Bn TSR about the sanction of personal loan to the Charged Official. However he could not submit any reasonable justification in respect of non intimation about the aforesaid transaction to the competent authority as per the provision of Rule 18(3) of CCS (CCA) Rule.

Under the above facts and circumstances, the Article of Charge-I framed against Sub (Head Clerk) Shri Kanwaljit Yadav of 8th Bn TSR is proved.

[5] After said enquiry report was submitted by the Enquiring Officer, another memorandum was issued by the Disciplinary Authority on 17.10.2023 (Annexure-21) with the observation that there were over 75 violations of non-reporting of non-treasury transactions above the specified limit in violation of Tripura Civil Services (Conduct) Rules, 1988 which could not be seen as a non-reporting error or oversight on part of the Charged Official and such instances of non-reporting of transaction is in contravention of Rule 18 of Tripura Civil Services (Conduct) Rules, 1988 read with section 11(n) of TSR Act, 1983 with large number of credit transactions in the bank account of Charged Official and, therefore, the Disciplinary Authority proposed punishment of dismissal from the service of the petitioner and gave him opportunity to submit representation there against. The petitioner thereafter submitted his representation on 02.11.2023 (Annexure-22) and on consideration of the same, the Disciplinary Authority ultimately imposed penalty of dismissal from service vide order dated 20.12.2023 (Annexure-24). The petitioner thereafter preferred appeal before the Appellate Authority on 27.12.2023 and according to the petitioner, same is still pending.

[6] Mr. Purusuttam Roy Barman, learned senior counsel for the petitioner argues that the allegation against the petitioner was only relating to some bank transactions which were

related to a loan received by him even with the permission of his DDO and also regarding repayment of said loan amount by certain instalments and no allegation of any other private transactions or earning of any property or monetary benefit otherwise is not there and the enquiry report also concludes with its finding relying on said loan transaction only, but going beyond the records and the report of enquiry authority, the Disciplinary Authority has arbitrarily mentioned of alleged 75 number of transactions in support of his decision. Therefore, the order of the Disciplinary Authority was beyond the evidence rendering it illegal and *ultra vires*. Learned senior counsel further submits that the very enquiry report itself is illegal as during enquiry, the provisions of sub rule 11 & 14 of Rule 14 of CCS (CCA) Rules were not followed, and no evidence either oral or documentary was adduced from the side of prosecution. The next point as raised by learned senior counsel is that the charge itself was vague for non-mentioning of any specific transaction under allegation in the charge and even in this regard when an application was filed on 30.07.2023 (*Annexure-14*) before the Enquiry Officer seeking information about list of specific transaction, credits and debits date wise which according to the Disciplinary Authority amounted to violation of the rules, for his own clarification and for taking proper defence along with some other documents, but said prayer was declined.

[7] Mr. Roy Barman, learned senior counsel also contends that the memorandum dated 17.10.2023 (*Annexure-21*)

of the Disciplinary Authority while proposing the punishment of dismissal from service, also refers the provisions of Rule 18 of Tripura Civil Services (Conduct) Rules, 1988 read with Section 11(n) of TSR Act, 1983, but said Section 11(n) is categorised as less heinous offence in the very Act of 1983 itself, but despite the same a major punishment of dismissal from service was imposed. The penalty was, therefore, highly disproportionate. Mr. Roy Barman, learned senior counsel also submits that there was no allegation or charge of accumulation of any disproportionate assets and the enquiring authority also did not observe anything as such, but despite the same the Disciplinary Authority illegally observed that the source of the credit amounts was not disclosed by the petitioner. Finally learned senior counsel argues that the entire proceeding against the petitioner and punishment imposed upon him based on such disciplinary proceeding was illegal and *ultra vires* and, therefore, same is liable to be quashed.

[8] Mr. Mangal Debbarma, learned Addl. G.A., on the other hand, argues that it is evident above said memorandum dated 17.10.2023 (*Annexure-21*) that there were total 75 numbers of transactions revealed during enquiry which were not intimated to the appropriate authority in compliance of Rule 18 of Tripura Civil Services (Conduct) Rules, 1988 and, therefore, it was a case of disproportionate asset and hence the Disciplinary Authority was completely justified in imposing the penalty of dismissal of service upon the petitioner.

[9] This court has given due consideration to the submissions of both sides and also has gone through the materials placed in the record. It is admitted position that an appeal was filed before the Appellate Authority by the petitioner which, for a long period, is pending. As per Rule 46 of Tripura State Rifles (Discipline, Control, Service Conditions etc.) Rules, 1986, it is incumbent upon the authority to decide the appeal in accordance with the said rules, but till date same has not been disposed of.

[10] Considering that aspect, without giving any observation or findings on the merit of the writ petition, the writ petition is disposed of with a direction to the appellate authority to dispose of the said appeal preferably within 02(two) months from the date receipt of copy of this order. Needless to say, while disposing the appeal the appellate authority shall pass a reasoned order having due regards to the points of challenge as raised by the petitioner and as indicated above.

With such observations and direction, the writ petition is disposed of.

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

JUDGE

SATABDI DUTTA

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