

**HIGH COURT OF TRIPURA
AGARTALA**

WA 70 of 2025

Sri Babul Pal

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

For Appellant(s)	:	Mrs. Sujata Deb (Gupta), Advocate. Mr. Bikram Paul, Advocate. Mr. Ramprasad Gope, Advocate. Miss Ankita Saha, Advocate. Ms. Rumpa Dey, Advocate.
For Respondent(s)	:	Mr. D. Sarma, Addl. GA.
Date of hearing and date of judgment and order	:	23.07.2025
Whether fit for reporting	:	Yes

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order (Oral)

Dr. T.Amarnath Goud, J

[1] This is an appeal under Chapter –VIII B(A) of the High Court of Tripura Rules, 2023 against the judgment & Order dated 27.05.2025 passed in WP(C) 456 of 2024 passed by the learned Single Judge.

[2] It is the case of the appellant that on 13.08.2016 the appellant was engaged as "Safai Karmachari" under Melaghar Municipal Council, Sepahijala, Tripura. The appellant used to received Rs. 4,896/- as monthly wages. On 30.09.2023 he received his wages for the month of September, 2023. Then suddenly on 08.10.2023 the then Councillor of Ward No. 13, Melaghar Municipal Council told the appellant not to come for work from next day. On being asked for the reason behind such dismissal the appellant was ousted from the Office. Then on 16.10.2023 and on 22.11.2023 the appellant submitted two representations to the respondent Nos. 3 & 4 respectively, praying to re-engage him in his service. But the respondents neither took any step to re-engage the appellant nor gave any reply to his representations.

[3] The appellant then on 06.02.2024 has through his Ld. Counsel sent a legal notice to the respondent No. 3 praying thereon and on 27.02.2024 the respondent No. 3 issued a Memo intimating the appellant that his service as "Safai Karmachari" is not required w.e.f. 01.03.2024, the respondent No. 3 issued a cheque in favour of the appellant. Thereafter finding no other way the appellant on 15.03.2024 has sent another legal notice to the respondent Nos. 3 & 4 praying to re-engage him in his service as "Safai Karmachari". But the respondents did not bother to the said legal notice dated 15.03.2024. Thereafter the appellant filed an application before the Labour Officer, Bishramganj, Sepahijala Tripura for quashing the Memo dated 27.02.2024 issued by the respondent No.2. Then on 20.05.2024 the Sepahijala District Labour Office, Bishramganj, Sepahijala has sent a letter to the appellant stating that the Memo dated 27.02.2024 does not contain any such expression or words as "dismissal" or "termination" or "retrenchment".

[4] Being aggrieved by the conduct of the respondents, the appellant filed a writ petition vide WP(C) No. 456 of 2024. Accordingly, on 27.05.2025 the learned Single Judge has passed a Judgment and Order in WP(C) No. 456 of 2024 and dismissed the said writ petition of the appellant.

[5] Being aggrieved and dissatisfied with the said Judgment and Order dated 27.05.2025 passed in WP(C) No. 456 of 2024 the appellant preferred the instant appeal.

[6] It is contended by the counsel for the appellant that the cryptic order of the respondent No. 3 where the respondent No. 3 has not given any direct order of termination, retrenchment or dismissal against the appellant as a result the Labour Office did not interfere the impugned order dated 27.02.2024, but the condition precedent to retrenchment of workman is provided under Section 25F of the Industrial Disputes Act, 1947 without giving one month notice indicating the reason no workman shall be retrenched/terminated/dismissed by the employer.

[7] To support the case of the appellant, Para 4 of a judgment of the Allahabad Court has been relied upon by the counsel for the appellant in ***Ramendra Nath and etc vs Mandi Samiti, Sultanpur and another etc*** reported in ***AIR 1989 Allahabad 154*** where the court has observed as under:

“4. It is true that Mandi Samiti is a corporate body and its employees are employees of the Mandi Samiti and, as such, they do not hold civil post, but notwithstanding the fact that the termination order was in innocuous language, if the same is violative of Article 14 of the Constitution and the principles of natural justice, which principles are included in Article 14 of the Constitution, it cannot hold good. The order has been challenged on the ground that the same was arbitrary and discriminatory and violative of principles of natural justice. On behalf of the opposite parties it was pointed out that it being a matter of contract between the employer and employees the services were terminated in terms of contract and there being no statutory rules, no interference can be made and in this connection reference was made on behalf of the opposite parties to a Division Bench of this Court in A. K. Home Chaudhary v. National Textile Corporation, U. P. Ltd., Kanpur, 1984 UP LBEC 81. In the said case the petitioner was appointed by the Board in Patlad Textile Mills, Patlad (Gujarat) Ltd., a Unit of the National Textile Corporation. While he was posted at Calcutta, questions were raised in the Parliament that he was a dismissed employee of the State Government and even then he had been employed as Director of one of the subsidiary companies of the National Textile Corporation on the basis of forged documents. The petitioner was directed to submit his explanation, which was considered, and thereafter the Board which appointed him decided to terminate his services and his services were so terminated on the concealment of this material fact. The division Bench held that Article 311 of the Constitution was not applicable to the employees of National Textile Corporation. It was further held that the form of the order is not conclusive to its nature. The entirety of circumstances attendant on the impugned order must be examined by the Court and overriding test will always be whether the misconduct is mere motive or is the very foundation of the order. It was further observed that no punitive action was taken against the petitioner. The allegation relating to the petitioner's conduct was only a motive and not foundation and the termination order which was ex-facie innocuous in nature, could not be held to be punitive after holding an enquiry into the motive behind the order. Reference was also made to the case in Kulchinder Singh v. Hardayal Singh Brar, AIR 1976 SC 2216. The writ petition was directed against a society registered under Punjab Co-operative Societies Act. The petitioner, in that case, wanted to enforce a contract which was entered into between the employer and union regarding promotion of employees and the Court held that such a writ petition was not maintainable. The ratio laid down in the said case has got no applicability to the facts of the present case, and nothing contrary was laid down in said case, rather this question was not for consideration in said case and the question considered was whether the benefit of Article 311 of the Constitution is available to the employees of the Corporation in respect of which there is no dispute in this case.”

[8] Heard and perused the record.

[9] It is evident from the record that the appellant, a part-time pump operator, was disengaged from his engagement by the Melaghar Municipal Council vide memorandum dated 27.02.2024, citing irregular performance in his daily work. The learned Single Judge, after considering the matter,

declined to interfere with the disengagement, while providing a scope to the appellant to submit a representation against the allegations of irregular performance.

[10] We have carefully considered the submissions made by the learned counsel for the appellant and perused the records.

[11] At the outset, we draw strength from the observations made by a coordinate Bench of this Court in the case of *Sri Shyamapada Pal vs. The State of Tripura and others* [WP(C) 890 of 2022 disposed of on 03.07.2023]. In that case, while dealing with a similar issue concerning the disengagement of a part-time pump operator who did not hold a civil post, the learned Single Judge unequivocally observed that "a person having not held civil post cannot seek mandamus or the court cannot exercise its discretionary power and extraordinary jurisdiction, as enshrined under Article 226 of the Constitution of India." The said judgment further clarified that such a person "may claim compensation in an appropriate forum, if he feels that illegalities have been committed towards him by the respondents."

[12] Applying the principles enunciated in *Sri Shyamapada Pal* (supra) to the present case, it is evident that the appellant, being a part-time pump operator, does not hold a civil post. Consequently, the extraordinary jurisdiction under Article 226 of the Constitution of India cannot be invoked to seek a mandamus for re-engagement, particularly when the engagement is not in the nature of a civil post. The scope of judicial review in such matters is limited, and the High Court, in its writ jurisdiction, does not ordinarily delve into the contractual aspects or supervise the day-to-day administration of such engagements.

[13] Furthermore, it appears from the impugned memorandum dated 27.02.2024 that the decision to discontinue the appellant was taken by the Melaghar Municipal Council.

[14] The petitioner has not placed on record his employment order and has not established the employee & employer relation. A fair reading of the memorandum dated 27.02.2024 only indicates his services were not continued. It is not an order of termination. When there is no appointment order, the said memorandum cannot be termed as an order of termination. The

petitioner except submitting that he served long period has not substantiated the case in support of his prayer. It is not established as to under what category the petitioner was engaged by the respondent.

[15] The appellant has failed to make out a case demonstrating any legal right to be re-engaged that can be enforced through a writ of mandamus. The engagement not amounting to a civil post, the learned Single Judge was correct in holding that the prayers for re-engagement by quashing the impugned memorandum could not be allowed under Article 226.

[16] In light of the foregoing, we find no infirmity in the judgment and order passed by the learned Single Judge. The judgment as relied by the counsel for the appellant is not relevant to the facts of the case. Therefore, this Court is not persuaded by the arguments advanced on the basis of the said judgment, as it offers no pertinent legal precedent or factual analogy applicable to the appellant's claim for re-engagement.

[17] Accordingly, we affirm the judgment of the learned Single Judge. The appellant has failed to make out his case for intervention by this Court in its appellate jurisdiction and the appeal is liable to be dismissed.

[18] Accordingly, the appeal is dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

B.Palit, J

Dr. T. Amarnath Goud, J

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