

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.456 of 2024

Sri Babul Pal,

Son of Late Arjuneshwar Pal, resident of Yubaraj Ghat, Pal Para, Melaghar, P.O. & P.S. Melaghar, District Sepahijala Tripura, Pin 799115.

..... Petitioner(s)

- Versus -

- 1. The State of Tripura,**
Represented by the Secretary to the Government of Tripura, Department of Finance, Gorkhabasti, New Capital Complex, P.O. & P.S. NCC, Agartala, District West Tripura, Pin 799003.
- 2. The Secretary cum Commissioner to the Government of Tripura,**
Department of Finance, Gorkhabasti, New Capital Complex, P.O. & P.S. NCC, Agartala, District West Tripura, Pin 799003.
- 3. The Chief Executive Officer,**
Melaghar Municipality of Council, Sonamura, Sepahijala Tripura, Pin 799115.
- 4. The District Magistrate and Collector,**
Bishramganj, Sepahijala Tripura, Pin 799103.

.....Respondent(s)

For the Petitioner(s)	:	Mrs. Sujata Deb (Gupta), Advocate.				
For the Respondent(s)	:	Mr. M. Debbarma, Addl. G.A.				
Date of hearing	:	4th April, 2025.				
Date of delivery Of Judgment & Order	:	27th May, 2025.				
Whether fit for reporting	:	<table border="1"><tbody><tr><td>YES</td><td>NO</td></tr><tr><td></td><td>√</td></tr></tbody></table>	YES	NO		√
YES	NO					
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

According to the petitioner, on 13.08.2016 he was engaged as 'Safai Karmachari' under Melaghar Municipal Council, Sepahijala and since then he was working there with a monthly wages of Rs.4,896/-. The last payment of wages was made on

30.09.2023 for the month of September, 2023 through his bank account. According to him, he was rendering service without any interruption but from October, 2023 to January, 2024, he did not receive his wages and on 08.10.2023, the Councilor of Ward No.13 of Melaghar Municipal Council without any reason told him not to continue his work further under the said Municipal Council and when he tried to enquire about the same, he was ousted from the office of the Council. Thereafter, he met with one Biswajit Das, Mandol Sabhapati of Sonamura town and as per his instruction, the petitioner continued to work again as 'Safai Karmachari' under the said Municipal Council which was also to the notice of Councilor of Ward No.13. On 16.10.2023, he also submitted a representation to the Chief Executive Officer of said Municipal Council praying for his re-engagement but it received no response. Thereafter, on 22.11.2023, he submitted another representation to the DM & Collector, Sepahijala praying for his re-engagement as 'Safai Karmachari' but the DM & Collector has not also taken any step in this regard. Then he sent a legal notice to respondent no.3 for releasing his wages of Rs.19,584/- for the period from October, 2023 to January, 2024. Thereafter, the Dy. Chief Executive Officer of the said Municipal Council issued a Memo No.F.2(2)/MC/MLG/Estta/2023-24/4629-35 dated 27.02.2024 (Annexure-5 of the writ petition) informing that his service as 'Safai Karmachari' under said Municipal Council was not required w.e.f. 01.03.2024 and asked him not to attend the office from that date.

Simultaneously he also issued a cheque dated 29.02.2024 for Rs.19,584/- regarding his back wages for the period of October, 2023 to January, 2024.

[2] Thereafter, the petitioner sent another legal notice to the Chief Executive Officer of the Municipal Council seeking his re-engagement within 15 days of receipt of the notice but that also yielded no result. Then the petitioner submitted an application before the Labour Officer, Bishramganj challenging his said letter of discontinuation of service but the Labour Officer did not entertain the same as communicated by him vide letter dated 17.05.2024 (Annexure-9 of the writ petition) in the following manner:

"In response to your letter, it is to inform you that in the Memo No.2(2)/MC/MLG/ESTTA/2023-24/4629-35, dated 27.02.2024, issued by the Dy.CEO, Melaghar Municipal Council, there is no such expression or words as "dismissal" or "termination" or "retrenchment" found.

Moreover as per Section 2 of the Industrial Disputes Act, 1947 any activity of the Government relating to the sovereign functions of the Government is excluded from the definition of "Industry"."

[3] Now, said discontinuation letter and his discontinuation as Safai karmachari has been challenged by the petitioner in this writ petition with following prayers:

- i. Admit the petition;*
- ii. Issue notice upon the respondents and call for the records lying with the custody of the respondents;*
- iii. As to why a writ of Certiorari shall not be issued for commanding/directing the respondent No.3 to quash the Memo vide No.F.2(2)/MC/MLG/Estta/2023-24/4629-35, dated 27.02.2024 issued by the respondent No.3;*

iv. As to why a writ of Mandamus shall not be issued for interfering the dismissal of the petitioner, vide Memo No.F.2(2)/MC/MLG/Estta/2023-24/4629-35, dated 27.02.2024 issued by the respondent No.3 without serving any show cause or caution notice;

v. As to why a writ of Mandamus for commanding/directing the respondents to re-engage the petitioner in his service as "safai karmachari";

vi. After hearing the parties, be pleased to make the Rule Absolute in terms of (iii), (iv) & (v) Above;

vii. Costs of an incidental to this proceeding;

viii. Any other relief(s) as to this Hon'ble High Court may deem fit and proper.

[4] Despite service of notice, the respondent no.4 has not appeared to contest the case. However, the State respondents submitted one counter affidavit admitting the fact that the DM & Collector, Sepahijala received the complaint of the petitioner dated 22.11.2023 and thereafter, same was forwarded to the Sub-Divisional Magistrate, Sonamura who happened to be the Chief Executive Officer of Melaghar Municipal Council for taking necessary action. It is also further stated that from the memorandum dated 27.02.2024 (Annexure-5 of the writ petition) it appeared that petitioner was terminated from the work of 'Safai Karmachari' by Dy. Chief Executive Officer as per decision of General Body, Melaghar Municipal Council and therefore, the DM & Collector, Sepahijala had no role to play in this regard.

[5] Mrs. Sujata Deb (Gupta), learned counsel after reiterating the facts of the case submits that in gross violation of principle of natural justice, the engagement of petitioner has been

terminated without giving him any opportunity to be heard and therefore, the impugned memorandum dated 27.02.2024 is required to be interfered with and he is required to be re-engaged in the work. According to learned counsel, the dismissal of the petitioner is grossly illegal.

[6] Mr. M. Debbarma, learned Addl. GA submits that the State and the officers of the State have unnecessarily been made party in this case though they have no role in the affairs of Melaghar Municipal Council.

[7] On consideration of submission of both sides and on perusal of the relevant documents as relied on, it appears from the copy of bank passbook that the monthly wage of Rs.4,896/- was remitted to the bank account of the petitioner on 30.09.2023 and again an amount of Rs.19,584/- was remitted to said bank account on 05.03.2024 through cheque as indicated earlier. It is the claim of the petitioner that said amount were paid to him as wages for the month of September, 2023 to January, 2024. The petitioner wrote a letter dated 16.10.2023 to the respondent no.3 praying for engaging him again as 'Safai Karmachari' in the said Municipal Council. Thereafter, he also wrote a letter to the DM & Collector, Sepahijala in the next month i.e. on 22.11.2023 stating that he was prohibited from working in the said Municipal Council and therefore, he prayed for his re-engagement again in the said Municipal Council as 'Safai Karmachari'. It could not be clarified by the petitioner as to what had necessitated him to submit those two

petitions before said two authorities when he himself is claiming that as per instruction of one Mandal Sabhapati he continued to work as 'Safai Karmachari'. Both the versions are self contradictory.

[8] The relevant memorandum dated 27.02.2024 (Annexure-5 of the writ petition) as issued by the Dy. Chief Executive Officer of said Municipal Council is extracted hereunder which shows that in the General Body meeting of Melaghar Municipal Council, it was decided that his service as 'Safai Karmachari' under Melaghar Municipal Council was not required w.e.f. 01.03.2024 due to his irregular performance in his daily work and therefore, he was asked not to attend the office w.e.f. 01.03.2024 until further order.

“GOVERNMENT OF TRIPURA
OFFICE OF THE CHIEF EXECUTIVE OFFICER
MELAGHAR MUNICIPAL COUNCIL
MELAGHAR, SEPAHIJALA, TRIPURA
No.F.2(2)/MC/MLG/Estta/2023-24/4629-35 Dated 27/02/2024

MEMO

Sri Babul Pal, S/O Lt. Arjuneshwar Pal, resident of Yubaraj Ghat, Pal Para, Melaghar, P.O. & P.S. Melaghar, Sepahijala, Tripura, “**Safai Karmachari**” posted under Melaghar Municipal Council is hereby intimated that his service as a Safai Karmachari under Melaghar Municipal Council is not required **w.e.f 01-03-2024**, as the decision has been taken in the General Body Meeting of Melaghar Municipal Council held on 20-12-2023, **para no.7**, vide **No.F.6(1)/MMC/MLG/Meeting/2023-24/3172-75**, **for his irregular performance in his daily work.**

Hence, **Sri Babul Pal** is hereby informed not to attend the office **w.e.f. 01-03-2024** until further order.

To

Sri Babul Pal, for information & necessary action.

Sd/-
Dy. Chief Executive Officer
Melaghar Municipal Council
Melaghar, Sepahijala, Tripura”

[9] Said letter nowhere indicates that he was in any roll of casual workers or temporary workers or of DRW in said Municipal Council. The petitioner also does not claim to be so. He also did not submit any engagement letter or any other document issued to him by said Municipal council to show that he was working there from 13.08.2016 continuously. He also could not show any rules or guidelines to show that for any such discontinuation of the petitioner from the work of 'Safai Karmachari', the Council is under obligation to issue any show-cause notice or to follow any prescribed procedure in this regard. The order of the Labour Officer is also not challenged by the petitioner to seek any protection under the Industrial Disputes Act, 1947.

[10] In a case in between ***Sri Shyamapada Pal vs. the State of Tripura and others [WP(C) 890 of 2022 disposed of on 03.07.2023]***, the petitioner, a part time pump operator under DTW scheme was dis-engaged from his such engagement. While dealing with the issue and the challenge regarding dis-engagement of that petitioner, the coordinate Bench of this Court in said case observed that a person having not held civil post cannot seek mandamus or the court cannot exercise its discretionary power and extra ordinary jurisdiction, as enshrined under Article 226 of the Constitution of India. However, he may claim compensation in an appropriate forum, if he feels that illegalities have been committed towards him by the respondents.

[11] Considering all these aspects, this Court does not find any merit in the writ petition to allow the prayer of the petitioner for his re-engagement by quashing said impugned memorandum dated 27.02.2024. Anyway, from the impugned memorandum dated 27.02.2024, it appears that the decision was taken by Melaghar Municipal Council to discontinue him on the ground of his irregular performance in his daily work. Therefore, personal allegations are labelled against the petitioner. Considering thus, a scope is given to the petitioner to submit his representation, if any, against such allegation of irregular performance in his daily work.

[12] In view of above discussions, the writ petition is hereby dismissed. However, petitioner is given liberty to submit a representation against memorandum dated 27.02.2024 to the respondent no.3, if so desire, within 2(two) weeks from today. The respondent no.3 is directed to dispose of the representation, if so submitted, with a reasoned order within 3 (three) weeks from the date of submission of the same.

With such observation, the writ petition is disposed of.

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

JUDGE