

THE HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) 31 of 2014

Sri L. Sundarajan, S/O:-Sri P. Lingasamy, R/O:
Village-126/60 B South Street, P.O:-
Vadakkupudur, P.S:- Sankaranlovil, District:-
Tirunelveli, State-Tamil Nadu, Pin:-627756.

..... *Petitioner*

- Vs. -

1. The State of Tripura,
Represented by the Secretary cum
Commissioner to the Department of Home,
Government of Tripura,
P.O.-Kunjaban,
P.S.-West Agartala, Dist:-West Tripura.
2. The Inspector General of Police (TSR & OPS),
Government of Tripura, P.O.-Agartala,
P.S.-West Agartala, Dist-West Tripura.
3. The Deputy Inspector General of Police, AP
(Administration & Training), Milanchakra,
P.O:- A.D. Nagar, P.S-West Agartala,
Dist:- West Tripura.
4. The Commandant,
13th Battalion, Tripura State Rifles,
Subhas Nagar, P.O & P.S-Kanchanpur,
Dist-North Tripura.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the Petitioner	: Mr. A. Bhowmik, Advocate.
For the respondents	: Mr. S. Chakraborty, Addl. GA.
Date of hearing & delivery of Judgment & order	: 07.04.2015.
Whether fit for reporting	: No

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ.)

The petitioner by means of this writ petition has challenged the appellate order dated 05.10.2013 whereby the Deputy Inspector General of Police had dismissed the appeal filed by the petitioner and confirmed the order dated 03.10.2012 visiting the petitioner with penalty of removal from service has been rejected.

2. At the outset, we may state that the petitioner had after the order was passed by the Disciplinary Authority approached this Court by filing W.P. (C) No.155 of 2013, which was disposed of by this Court with the following order:-

"Learned State counsel points out that there is an effective alternative remedy of appeal available to the petitioner in terms of the Tripura State Rifles(Discipline, Control, Service Conditions etc.)Rules 1986.

Appeal lies to the Deputy Inspector General of TSR.

We are of the view that the petitioner must exhaust this remedy available to him before approaching this Court. We, therefore, without going into the merits of the case, dispose of this petition with a direction that in case the petitioner within 30(thirty) days from today files an appeal to the appellate authority, the same shall be treated as within limitation and be disposed of within 3(three) months of the receipt of the appeal.

Needless to say, in case the appellate order goes against the appellant-petitioner he can then approach this Court."

3. Thereafter, the petitioner filed an appeal on 07.09.2013 against the order passed by the Disciplinary Authority i.e. within 30 days from the passing of the order dated

22.08.2013. This appeal runs into 14 pages. In this appeal, the petitioner raised a number of pleas and one of the main pleas raised was that since the petitioner was acquitted by the criminal Court he should also be held not guilty in the department. Various other issues were raised. The appeal has been disposed of on 05.10.2013 on the following grounds:-

- (i) "DP was conducted properly and no anomaly was seen in conducting the proceedings and the petitioner was given reasonable opportunities to defend himself during the course of enquiry, but he failed.**
- (ii) During the course of DP, he had also given opportunities to cross examine the PWs and the recording of statement of PWs done in presence of the appellant Ex-Rfn(GD) L. Sundarajan. The EO was proved the allegation leveled against the appellant on the basis of recorded statement of PWs**
- (iii) Findings of the Inquiry Authority as well as Disciplinary Authority are warranted by the evidence on record.**
- (iv) Penalty "Removal from Service" as was imposed upon the said appellant is commensurate with the nature of offence of above appellant.**
- (v) The instant appeal petition dated nil was received by this office on 07.09.2013. He made the instant appeal petition to the appellate authority after 11 months from the date of issue of final order of 'Removal from service'. So, the instant appeal petition is not made within the 30 days time limit for the purpose as laid down in Rule 46(3) of the TSR (DCSC etc), Rules, 1986."**

4. As far as ground (v) is concerned that amounts to contempt of Court. When this Court had directed that in case the appeal is filed within 30 days of the passing of the order it shall be treated to be within limitation. We fail to understand how the appellate authority could have held such that the appeal is not within the limitation. This prima facie amounts to willful disobedience of the orders of this Court. Therefore, the Registry is

directed to issue show cause notice to Sri B.N. Debbarma, Deputy IG of Police, AP(Adm & Trg), Tripura, Agartala to show cause why contempt proceedings be not initiated against him.

5. With regard to the appeal on merits, we find that the appellate authority has not even touched any of the points raised by the petitioner. The findings given are absolutely general without referring to any material. The order is virtually a non-speaking order because it is apparent that the appellate authority has not even cared to read the file. Neither any facts are set out in the appellate order nor the points raised by the appellant have been touched by the appellate authority.

6. We, therefore, set aside the appellate order and direct that the appeal should be now heard by some other officer not below the rank of Inspector General of Police who shall consider all the points raised by the petitioner in his appeal and decide the same in accordance with law.

JUDGE

CHIEF JUSTICE

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