

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 238 OF 2009

Smti. Minati Das,
Wife of Late Manoranjan Das,
Resident of Chanban, Master Para,
P.O. R.K. Pur, Udaipur,
P.S. Udaipur, South Tripura.

.... **Petitioner.**

- **Vrs** -

- 1. The State of Tripura,**
(Represented by the Secretary to the
Government of Tripura),
Forest Department, Agartala.
- 2. The Principal Chief Conservator of Forest,**
Government of Tripura,
Agartala.

.... **Respondents.**

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

For the Petitioner	: Mr. C.S.Sinha, Advocate.
For the respondents	: Mr. J. Majumder, Advocate.
Date of hearing & Delivery of judgment and order.	: 04.02.2015.
Whether fit for Reporting	: NO

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

This writ petition is directed against the order dated 29.08.2008 whereby a sum of Rs.40,095/- (Rupees forty thousand and ninety five) had been withheld from the DCRG (Death Cum Retirement Gratuity) of the husband of the petitioner payable to the petitioner.

2. The undisputed facts are that the husband of the petitioner was posted as Forester and was earlier serving in Khowai under Teliamura Forest Division. An allegation was made against him that during the period November, 1989 to February, 1991 when Monoranjan Das was posted at Khowai, he seized certain timber but while handing over the charge of his post, he did not hand over the said timber to his successor. Accordingly disciplinary proceedings were initiated against Monoranjan Das in this regard. Inquiry was conducted and the Inquiry Officer vide his report dated 28.11.2006 totally exonerated Monoranjan Das. However, the disciplinary authority disagreed with the report of the Inquiry Officer and issued notice to Monoranjan Das on 12.03.2007 to show cause why the penalty be not imposed upon him. However, before any final decision was taken, Monoranjan Das expired on 24.02.2008. Thereafter the State took a decision on 23.05.2008 to drop the disciplinary proceedings. The said decision reads as follows:-

*“Government of Tripura
Forest Department.*

No.F.19(566)/Vig/For-07/1349-53

Dt.13/5/08

O R D E R.

WHEREAS Shri Mono Ranjan Das, Forester expired on 24.02.2008 and therefore, the disciplinary proceeding drawn up against said Mono Ranjan Das, Ex-Forester vide Memo No.F.19(566)/Vig/For-02/16,952-56 dated 26.10.2004 of Forest Department, Govt. of Tripura has come to an end as per G.I. Instruction No.5 under Rule-15 of CCS(CC & A) Rules, 1965 and hence the said proceeding is closed.

This issues with the concurrence of the Government vide U.O. No.277-CS/For/08 dated 14.05.2008.

By order & in the name of the Governor

Sd/-

*Joint Secretary to the Government of Tripura,
Forest Department.*

To:-

- 1. The Accountant General (Accounts), Tripura, Agartala.*
- 2. The Principal Chief Conservator of Forests, Tripura, Agartala.*
- 3. The Conservator of Forests, Southern Circle, Udaipur.*
- 4. The Divisional Forest Officer, Udaipur.*
- 5. Personal file of Mono Ranjan Das, Ex-Forester."*

3. It would be pertinent to mention that no reservation has been expressed in this order that the State would be entitled to recover any amount on account of the loss suffered from the estate of deceased Monoranjan Das. The Inquiry proceedings were closed.

4. Thereafter the impugned order was passed on 29.08.2008 which reads as follows:-

*"Government of Tripura,
Office of the Principal Chief Conservator of Forest,
Tripura, Agartala.*

ORDER

WHEREAS a disciplinary proceedings was drawn up against Monoranjan Das, Forester, now expired, vide Memo No.F.19(566)/Vig/For-02/16,952-56 dated, 26.10.2004 under Rule 9 of C.C.S(Pension) Rules,1972, the charge being that Sri Monoranjan Das, Forester while serving as Officer-in-Charge of Khowai S.F.P.P. under Teliamura Forest Division during the period from November,1989 to February,1991 seized 19.68 cum. of round timber logs of different species as well as 79.11 Rmt. of Sal posts which were in his stock and custody as per seized produce register maintained by him. But while handing over the charge of Khowai S.F.P.P., he did not hand over the said seized timber and posts physically to his successor Shri Pankaj Kanti Bhowmik, Forester. The said seized timber stock was, instead, disposed off by him for his personal benefit and gain and also proceeds of the same were also misappropriated by him. Shri Monoranjan Das, Forester (Now Retired) was therefore, charged with serious misconduct and for recovery of the sales proceeds of the seized produce

which were assessed being worth Rs.40,095/- (Rupees forty thousand and ninety five) only.

AND WHEREAS the said Monoranjan Das, Retd. Forester expired on 24.02.2008 and therefore, the disciplinary proceeding drawn up against said Monoranjan Das, Ex. Forester vide Memo No.F.19(566)/Vig/for-02/16,952-56 dated 26.10.2004 of Forest Deptt., Govt. of Tripura has come to an end as per G.I. instruction No.5 under Rule 15 CCS (CC & A) Rules,1965 and hence the said proceeding is closed.

AND WHEREAS the Govt. has decided to recover the mis-appropriation of Govt. money being sale proceeds of the seized produce which were assessed being Rs.40,095/- from his withheld D.C.R.G.

NOW THEREFORE, I, the undersigned, hereby order to recover the mis-appropriation of Govt. money being sale proceeds of the seized produce by Monoranjan Das, Retd. Forester (Now expired) in accordance with the order dated 26.11.2007 of Hon'ble Gauhati High Court, Bench at Agartala in case No.WP(C) 77 of 2005 from his withheld D.C.R.G.

*Sd/-
(R.P. Tangwan)
Principal Chief Conservator of Forests,
Tripura."*

5. We have quoted this order *in extenso* because the State proceeded on the assumption that it has a right to recover the amount of loss allegedly sustained by the State from the estate of Monoranjan Das. As pointed out above, the Inquiry Officer exonerated Monoranjan Das. As on date there is no finding that Monoranjan Das was guilty of any misconduct. No doubt, the disciplinary authority had expressed some findings disagreeing with the Inquiry report but these findings are only tentative in nature and unless an opportunity is given to the delinquent officer to make a submission against the findings and thereafter a finding is given, there can be no final findings. As such there was no finding in any disciplinary proceedings against the petitioner.

6. In this view of the matter, the State is not entitled to recover this amount from the DCRG of the deceased payable to the petitioner. We, however, make it clear that the State if so advised, can file a suit or other appropriate proceedings where it will first have to establish that the loss has been occasioned to it due to the negligence of the deceased Monoranjan Das and shall also have to prove the amount of loss if any, occasioned to it. Needless to say if such proceedings are filed, the petitioner shall be entitled to raise all objections available to her.

7. The writ petition accordingly stands disposed of.

JUDGE

CHIEF JUSTICE