

THE HIGH COURT OF TRIPURA AGARTALA

WP(C) 72 of 2010

Sri Subodh Jamatia,
S/O Late Lalit Mohan Jamatia
Resident of Vill/P.O Shilghati,
P.S. Kakraban, District-South Tripura.

..... Petitioner

Versus

- 1. The State of Tripura**
Notice to be served upon
the Chief Secretary to the
Government of Tripura who is the
Secretary of Home Department,
Agartala.
- 2. The Director General of Police,**
Government of Tripura,
Agartala, West Tripura.
- 3. The Commandant,**
5th Bn Tripura State Rifles (IR)
Daluma, Amarur, South Tripura.

..... Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE UB SAHA

For the petitioner : Mr. KN Bhattacharji, Sr. Advocate
Mr. S Acharji, Advocate.

For the respondents : Mr. TD Majumdar, Govt. Advocate

Date of hearing and
delivery of judgment : **08.01.2015.**

Whether fit for reporting : **No.**

JUDGMENT AND ORDER(ORAL)

(Deepak Gupta, CJ.)

By means of this writ petition, the petitioner has challenged the order dated 8th February, 2002 whereby he was discharged from service on the ground that he had been convicted in a criminal case

under Sections 41/49/464 IPC by the learned Assistant Sessions Judge, South Tripura, Udaipur and sentenced to undergo imprisonment for three years and to pay a fine of Rs. 1,000/-.

2. It would be pertinent to mention that the petitioner at the relevant time was employed as Naib Subedar (GD) in the 5th Battalion, Tripura State Rifles (IR). There is no other ground for discharging him from service but his conviction.

3. Aggrieved by the conviction the petitioner took up various proceedings. We need not refer to all the proceedings. It would suffice to say that after the remand of the case by the High Court the petitioner was acquitted by the Sessions Judge and that order of acquittal has become final and was never challenged. Therefore, there is no order of conviction against the petitioner. The very basis on which the petitioner was discharged from service has ceased to exist. As such the said order will have to be set aside.

4. We may also mention that though the order was passed in 2002, the petitioner was acquitted finally on 01.10.2008 and thereafter the petitioner made a representation to the government for being reinstated in service on 18.03.2009. No action on his representation was taken and the only explanation given is that thereafter the petitioner approached the High Court and since the matter was sub judice no decision was taken on the representation.

5. There is no stay order by the High Court and nothing prevented the State from taking any action on the representation of the petitioner even during the pendency of the petition.

6. Taking a holistic view of the matter we are also of the view that the petitioner may have been working for some time in between

and therefore may not be entitled to full back wages. Therefore, the relief is being moulded to suit both the parties.

7. In view of the above discussion the writ petition is allowed. The order of discharge dated 8th February, 2002 is set aside and the petitioner is ordered to be reinstated in service on or before 30th April, 2015. He shall also be paid 50% of his back wages on or before the said date failing which the State shall be liable to pay interest @ 9% per annum on the back wages from today till payment of the back wages.

JUDGE

CHIEF JUSTICE