

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.14 of 2014,

W.P.(C) No. 16 of 2015

W.P.(C) No. 17 of 2015

&

W.P.(C) No.81 of 2015

In W.P.(C) No.14 of 2014

Petitioner:

Sri Jiban Kar,

son of Sri Amaresh Kar, resident of
village – Dalura, P.O., P.S. & Sub-
Division- Ambassa, District – Dhalai
Tripura

By Advocate:

Mr. Somik Deb, Advocate

– Versus –

Respondents:

1. The State of Tripura

represented by the Secretary, to the
Government of Tripura, Home
Department, having its office at New
Secretariat Complex, P.O. Kunjaban, P.S.
New Capital Complex, Sub-Division-
Sadar, District – West Tripura

2. The Director General of Police

Government of Tripura, having its office
at Police Head Quarters, Fire Brigade
Chowmuhani, P.O. Agartala, P.S. West
Agartala, Sub-Division- Sadar, District –
West Tripura

3. The Superintendent of Police,

Dhalai District, having its office at
Jawaharnagar, P.O, P.S & Sub-
Division- Ambassa, District- Dhalai
Tripura

By Advocate:

Mr. B.C. Das, Advocate General
Mr. S. Chakraborty, Addl. G.A.

In W.P.(C) No.16 of 2015

Petitioner:

Sri Dipak Das,
son of Sri Ram Charan Das, resident of
village- Singhaghar Colony, P.S. Kachu
-cherra, P.O. Chankap, District – Dhalai
Tripura

By Advocate:

Mr. P. Roy Barman, Advocate
Mr. S. Bhattacharji, Advocate

– Versus –

Respondents:

- 1. The State of Tripura**
represented by the Secretary, to the
Government of Tripura, Home
Department, having its office at New
Secretariat Complex, P.O. Kunjaban, P.S.
New Capital Complex, Agartala, District –
West Tripura, PIN-799006
- 2. The Director General of Police**
Government of Tripura, having its office
at Police Head Quarters, Fire Service
Chowmuhani, P.O. Agartala, P.S. West
Agartala, Agartala, District – West
Tripura, PIN - 799001
- 3. The Superintendent of Police,**
Jawaharnagar, Dhalai, District - Dhalai
Tripura, PIN - 799289
- 4. The District Magistrate and Collector, Ambassa,**
District: Dhalai, Tripura, PIN- 799289

By Advocate:

Mr. B.C. Das, Advocate General
Ms. A. S. Lodh, Addl. G.A.

In W.P.(C) No.17 of 2015

Petitioner:

Sri Jiban Kar,
son of Sri Amaresh Kar, resident of
village – Kanchanpur, P.S. Ambassa,
District – Dhalai, Tripura, PIN -799289

By Advocate:

Mr. P. Roy Barman, Advocate
Mr. Samarjit Bhattacharji, Advocate

– Versus –

Respondents:

- 1. The State of Tripura**
represented by the Secretary, to the
Government of Tripura, Home
Department, having its office at New
Secretariat Complex, P.O. Kunjaban, P.S.
New Capital Complex, Sub-Division-
Sadar, District – West Tripura, PIN:
799006
- 2. The Director General of Police**
Government of Tripura, having its office
at Police Head Quarters, Fire Service
Chowmuhani, P.O. Agartala, P.S. West
Agartala, Agartala, District – West
Tripura, PIN: 799001
- 3. The Superintendent of Police,**
Jawaharnagar, Dhalai, District - Dhalai,
Tripura, PIN:799289
- 4. The District Magistrate and Collector, Ambassa,**
District: Dhalai, Tripura, PIN: 799289

By Advocate:

Mr. S. Chakraborty, Addl. G.A.

In W.P.(C) No.81 of 2015

Petitioner:

Sri Sushil Nama Sudra,
son of late Sudhir Nama Sudra, resident
of village – Dabri, P.O. Mechura,

P.S. Kachucherra, District – Dhalai
Tripura, PIN- 799278

By Advocate:

Mr. P. Roy Barman, Advocate
Mr. Samarjit Bhattacharji, Advocate

- Versus -

Respondents:

- 1. The State of Tripura**
represented by the Secretary, to the Government of Tripura, Home Department, having its office at New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex, Agartala, District – West Tripura, PIN: 799006
- 2. The Director General of Police**
Government of Tripura, having its office at Police Head Quarters, Fire Service Chowmuhani, P.O. Agartala, P.S. West Agartala, Agartala, District – West Tripura, PIN: 799001
- 3. The Superintendent of Police,**
Jawaharnagar, Dhalai, District: Dhalai, Tripura, PIN:799289
- 4. The District Magistrate and Collector, Ambassa,**
District: Dhalai, Tripura, PIN: 799289

By Advocate:

Mr. B.C. Das, Advocate General
Ms. A. S. Lodh, Addl. G.A.

BEFORE

HON’BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON’BLE MR.JUSTICE S. TALAPATRA

Date of delivery of judgment and order : **23.11.2015**

Whether it is fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

All these four writ petitions are being disposed of by a common judgment.

[2] As far as the petitioner, Jiban Kar, who is the petitioner in W.P.(C) No. 14 of 2014 and W.P.(C) No.17 of 2015 is concerned, he has filed two writ petitions and in the second writ petition, he has not even cared to disclose that he had earlier filed a writ petition with regard to the same cause of action. All the petitioners were appointed as Special Police Officers in terms of the Tripura Police Act, 1861 by the District Magistrates of the areas concerned.

[3] Sri Jiban Kar, who is the petitioner in W.P.(C) No. 14 of 2014 and W.P.(C) No.17 of 2015 was arrested on 15th February, 2013 in connection with a case lodged against him by his wife under Section 498-A of the I.P.C. being Ambassa P.S. case No.07 of 2013. The fact that he was arrested is not denied before us. After he was arrested, on 23rd February, 2013 an order was passed, whereby Jiban Kar, SPO No. 522 of Hriday Para SPO Camp was discharged from the job of SPO w.e.f. 16th February, 2013.

[4] Sri Dipak Das, who is the petitioner in W.P.(C) No.16 of 2015 was arrested on 22.07.2012 in connection with a case registered against him under Sections 353,379,427,506/34 of

the I.P.C. being Kanchanpur P.S. Case No.10 of 2012. Vide order dated 30th October, 2012 he was discharged from service from the same date.

[5] Sri Sushil Namasudra, who is the petitioner in W.P(C) 81 of 2015 was arrested on 24.06.2008 in connection with Salema P.S. case No. 19 of 2008 registered under Sections 326/34 of IPC. The order of discharge was passed against him on 24.07.2008.

[6] None of the petitioners challenged the order of discharge after it was passed. All of them faced criminal trials and after they were acquitted in the criminal trials, they filed applications for being reinstated in service on the ground that they have been acquitted in the criminal cases. Even at that time, they did not challenge the order of termination. However, in the writ petitions challenge is laid to the order of termination and the challenge is on two grounds. The first ground is that the services of the petitioners were terminated by the Superintendent of Police. It is urged that they were all appointed by the District Magistrates of the areas concerned and therefore, the Superintendent of Police had no authority to terminate their services. In this regard, reliance has been placed on a judgment delivered by this Division Bench in W.P.(C) No.258 of 2014, wherein this Court held as follows:

"5. Furthermore, the order is wholly without jurisdiction. In terms of the order issued by the Director General of Police, Dated October

4, 2001, an SPO can be discharged in case of unsatisfactory service, indiscipline or any other conduct unbecoming of an SPO by the District Magistrate on a report to be submitted by the Superintendent of Police.”

[7] With regard to this submission, Mr. B.C. Das, learned Advocate General has brought to our notice the new Tripura Police Act, 2007 which repeals the old Tripura Police Act, 1861 and the repealing section totally repeals the Tripura Police Act, 1861 except those actions which had already been taken under the old Act. Once the act had been repealed, the Disciplinary Authority would be as per the new Act and in terms of Section 18(2) of the Tripura Police Act, 2007 the Special Police Officers are to be appointed by the Superintendent of Police and they alone will be their Disciplinary Authorities. Therefore, we are clearly of the view that the Superintendent of Police had the authority to terminate the services and in this regard, we have no hesitation in saying that the view as taken by us earlier may not be correct and that view was taken in ignorance of the provisions of the Tripura Police Act, 2007 which were not brought to our notice.

[8] The second ground of challenge is that the orders of discharge were passed without following the rules of natural justice. As pointed out earlier, these orders were passed in the year 2008, 2012 and 2013. No challenge was made to these orders when those were passed and the petitioners acquiesced to those orders. It may be true that the rules of natural justice

may not have been strictly followed but the fact remains that none of the petitioners deny that they were arrested in regard to those cases. The ground for termination is only that they were arrested and this fact is not denied by the petitioners in these writ petitions also and therefore, it would not be in the interest of justice to send back the matters and set aside the orders of termination only on the ground that the rules of natural justice have not been followed. The petitioners have acquiesced to the orders and accepted those orders and cannot be permitted to challenge those orders on this ground at this stage.

[9] Lastly comes the issue as to whether the petitioners should be reinstated in service. The petitioners are working as the Special Police Officers. The Special Police Officers are to be appointed as and when the need arises. There is no cadre of Special Police Officers and it is not a civil post. Even in the judgment relied upon by the petitioners, we had held as follows:

"We are aware that the post of SPO is not a civil post and normally, we would not have entertained a petition of this nature, but we find that the order has been passed which is punitive in nature in as much as it says that it is passed because a criminal proceedings pending against the petitioner whereas those criminal proceedings had already in terminated in the acquittal of the petitioner before the order had been passed."

[10] The petitioners have now been acquitted and they have to be put back in the same position. We however cannot direct that they be reinstated in service because they are not

holding any post. The only direction which this Court can give is that if the Superintendent of Police of the areas concerned, desires to engage Special Police Officers, henceforth then the petitioners shall be considered and when taking into consideration of the case, their service rendered earlier shall be taken into consideration.

With this observation and direction, these writ petitions stand disposed of.

JUDGE

CHIEF JUSTICE

Sujay/Moumita