

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.139 of 2015, W.P.(C) No.146
of 2015, W.P.(C) No.147 of 2015,
W.P.(C) No.148 of 2015, W.P.(C) No.149
of 2015, W.P.(C) No.150 of 2015,
W.P.(C) No.151 of 2015, W.P.(C) No.152
of 2015, W.P.(C) No.153 of 2015,
W.P.(C) No.154 of 2015, W.P.(C) No.155
of 2015, W.P.(C) No.156 of 2015 &
W.P.(C) No.157 of 2015

In W.P.(C) No.139 of 2015

Petitioner:

Sri Nababrata Rakshit,
son of late Subodh Chandra Rakshit,
care of Patan Das, West Pratapgarh,
P.S. A.D. Nagar, P.O. A.D. Nagar,
Agartala, District – West Tripura, PIN -
799003

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 790001
- 3. The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of

Tripura, Agartala, West Tripura, PIN - 799001

6. The Secretary,
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003

7. The Headmistress,
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.146 of 2015

Petitioner:

Smt Manika Datta,
daughter of Madanmohan Datta, care
of Rabindra Chandra Deb, resident of
Milan Sangha, P.S. A.D Nagar, P.O.
A.D Nagar, Agartala, District-West
Tripura

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 790001

3. **The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
4. **The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
5. **Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.147 of 2015

Petitioner:

Sri Paritosh Chandra Das,
son of late Jogesh Chandra Das,
resident of A.D Nagar, Agartala, P.S.
A.D Nagar, P.O. A.D Nagar, District-
West Tripura, PIN-799003

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura,**
to be represented by the Principal Secretary, Department of School Education, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education, Government of Tripura, Agartala, West Tripura, PIN - 790001
- 3. The Addl. Secretary,**
Directorate of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 6. The Secretary,**
Managing Committee, Bardowali High (Class-XII) School, P.O. A.D. Nagar, Agartala, Tripura West, PIN - 799003
- 7. The Headmistress,**
Bardowali High (Class-XII) School, P.O. A.D. Nagar, Agartala, Tripura West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.148 of 2015

Petitioner:

Smt Bindu Debbarma,
care of Sri Krishna Kumar Debbarma,
resident of Krishnanagar, 5 Hospital
Road, P.S. West Agartala, P.O.
Agartala, District- West Tripura, PIN-
799001

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 790001
- 3. The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001

6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003

7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.149 of 2015

Petitioner:

Sri Sudip Biswas,
son of Sri Suresh Chandra Biswas,
resident of village- Narshingar, P.S.
Airport, P.O. Bimangar, Agartala,
District- West Tripura

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

1. **The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006

2. **The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 790001

3. **The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 799001
4. **The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
5. **Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.150 of 2015

Petitioner:

Sri Utsa Debbarma,
care of Smt. Usharani Debbarma,
resident of Bhagaban Thakur
Chowmuhani, North Banamalipur, P.S.
East Agartala, P.O. Agartala, District-
West Tripura, PIN- 799001

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal Secretary, Department of School Education, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education, Government of Tripura, Agartala, West Tripura, PIN – 790001
- 3. The Addl. Secretary,**
Directorate of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 6. The Secretary,**
Managing Committee, Bardowali High (Class-XII) School, P.O. A.D. Nagar, Agartala, Tripura West, PIN - 799003
- 7. The Headmistress,**
Bardowali High (Class-XII) School, P.O. A.D. Nagar, Agartala, Tripura West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.151 of 2015

Petitioner:

Sri Kallol Debbarma,
son of Sri Kirit Debbarma, resident of
Old Kalibari Lane, Krishnanagar, P.S.
West Agartala, P.O. Agartala, District-
West Tripura, PIN- 799001

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 790001
- 3. The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
- 6. The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003

- 7. The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.152 of 2015

Petitioner:

Smt Anwesh Chakma,
care of Kallol Debbarma, resident of
Krishna Nagar, Old Kali Bari Lane, P.S.
West Agartala, P.O. Agartala, District-
West Tripura, PIN- 799001

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 790001
- 3. The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 799001

4. **The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
5. **Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.153 of 2015

Petitioner:

Sri Nilopan Dey,
son of late Sudhir Chandra Dey,
village- Siddhi Asharam, P.S. Amtali,
P.O. Siddhi Ashram, Agartala, District:
West Tripura, PIN- 799003

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

1. **The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital

Complex, Kunjaban, Agartala, West Tripura, PIN - 799006

2. **The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West Tripura, PIN – 790001
3. **The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West Tripura, PIN - 799001
4. **The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West Tripura, PIN - 799001
5. **Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

In W.P.(C) No.154 of 2015

Petitioner:

Sri Barun Kumar Debbarma,
care of Samirendra Debbarma,
resident of Abhoynagar, Manipuri
Basti, Agartala, P.S. East Agartala,
District- West Tripura, PIN- 799005

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal Secretary, Department of School Education, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education, Government of Tripura, Agartala, West Tripura, PIN - 790001
- 3. The Addl. Secretary,**
Directorate of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of School Education, Government of Tripura, Agartala, West Tripura, PIN - 799001
- 6. The Secretary,**
Managing Committee, Bardowali High (Class-XII) School, P.O. A.D. Nagar, Agartala, Tripura West, PIN - 799003
- 7. The Headmistress,**
Bardowali High (Class-XII) School, P.O. A.D. Nagar, Agartala, Tripura West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

W.P.(C) No.155 of 2015

Petitioner:

Sri Manmohan Debbarma,
son of Hemchandra Debbarma,
resident of village Amtali, P.S.
Bishalgarh, P.O. Brajapur, Agartala,
District: West Tripura

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 790001
- 3. The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001

5. **Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

W.P.(C) No.156 of 2015

Petitioner:

Sri Rupak Das Gupta,
son of Ratan Das Gupta, resident of
A.D Nagar Road No. 19, Agartala, P.S.
A.D Nagar, P.O. S D Mission, District:
West Tripura, PIN: 799003

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

1. **The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006

2. **The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 790001
3. **The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN – 799001
4. **The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
5. **Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
6. **The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
7. **The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

W.P.(C) No.157 of 2015

Petitioner:

Sri Kamaljit Debbarma,
son of Sri Kathin Chandra Debbarma,
resident of Old Kalibari Lane,
Krishnanagar, P.S. West Agartala, P.O.
Agartala, District- West Tripura, PIN:
799001

By Advocate :

Mr. Samarjit Bhattacharji, Advocate

- V e r s u s -

Respondents :

- 1. The State of Tripura ,**
to be represented by the Principal
Secretary, Department of School
Education, Government of Tripura,
New Secretariat Building, New Capital
Complex, Kunjaban, Agartala, West
Tripura, PIN - 799006
- 2. The Director,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 790001
- 3. The Addl. Secretary,**
Directorate of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 4. The Senior Research Officer,**
Department of School Education,
Government of Tripura, Agartala, West
Tripura, PIN - 799001
- 5. Sri Anil Chandra Das,**
Senior Research Officer, Department of
School Education, Government of
Tripura, Agartala, West Tripura, PIN -
799001
- 6. The Secretary,**
Managing Committee, Bardowali High
(Class-XII) School, P.O. A.D. Nagar,
Agartala, Tripura West, PIN - 799003
- 7. The Headmistress,**
Bardowali High (Class-XII) School,
P.O. A.D. Nagar, Agartala, Tripura
West, PIN - 799003

By Advocate :

Mr. S. Deb, Sr. Advocate,
Mr. S. Dutta, Advocate,
Mr. B. Dutta, Advocate,
Mr. P. Dutta, Advocate

**BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA**

Date of delivery of Judgment & Order : **18.09.2015**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER

Heard Mr. Samarjit Bhattacharji, learned counsel appearing for the petitioners as well as Mr. S. Deb, learned senior counsel assisted by Mr. S. Dutta, learned counsel and Mr. B. Debnath, learned counsel appearing for the State-respondents and Mr. P. Dutta, learned counsel appearing for the respondents No.6 & 7.

[2] All these writ petitions are clustered for disposal by a common judgment inasmuch as an identical question of law is involved in these writ petitions being W.P.(C) No.139 of 2015, W.P.(C) No.146 of 2015, W.P.(C) No.147 of 2015, W.P.(C) No.148 of 2015, W.P.(C) No.149 of 2015, W.P.(C) No.150 of 2015, W.P.(C) No.151 of 2015, W.P.(C) No.152 of 2015, W.P.(C) No.153 of 2015, W.P.(C) No.154 of 2015, W.P.(C) No.155 of 2015, W.P.(C) No.156 of 2015 and W.P.(C) No.157 of 2015.

[3] The petitioners are Assistant Teachers, working in the Bardowali Higher Secondary School which is a Grant-in-Aid School in terms of the Grant-in-Aid Rules, 2005 as adopted by the

Government of Tripura. The petitioners have admitted that they were on leave on the relevant date i.e. on 27.11.2014 when an inspection was carried out by the Senior Research Officer, Department of School Education. All the petitioners were marked unauthorizedly absent from the duty and thereafter, in view of the order passed by the Director of School Education, the Secretary, Managing Committee of the said school declared the petitioners as unauthorizedly absent on 27.11.2014. As consequence thereof, the working day, 27.11.2014 has been declared dies-non without break in service and hence, the salary for that day was deducted from the petitioners, by not disturbing their salaries for the next month. All the petitioners have taken an identical ground that they are on leave of various nature and as such, declaring their absence on 27.11.2014 as dies-non is entirely unsustainable inasmuch as dies-non can only be declared when any employee absents himself from the duty unauthorizedly and that too, after following the process of law as provided under F.R. 17A. It is the admitted position that the petitioners were not given any show cause notice before declaring the day i.e. 27.11.2014 as dies-non without break in service.

[4] Mr. Samarjit Bhattacharji, learned counsel appearing for the petitioners has submitted that under the similar circumstances Gauhati High Court, which had at the relevant point of time jurisdiction over the State of Tripura held in **Arunangshu Roy vs. State of Tripura & Others**, reported in **2000(3) GLT**

446 that absence for which the leave has been applied cannot be declared as dies-non without initiating a disciplinary proceeding and without giving an opportunity to the Government employee to represent his/her case. The said decision is based on the cardinal principles as laid down by the apex court in **B.D. Gupta vs. State of Haryana**, reported in **(1973) 3 SCC 149** where it has been held that any order that affects the employee financially, it must be passed after an objective consideration and assessment of all relevant facts and circumstances and after giving the person concerned full opportunity to make out his own case about that order. It has been further observed in **Arunangshu Roy vs. State of Tripura & Others** that *'the break in service occurs when a government employee absents himself from duty without authority or permission or when leave applied for is refused for bona fide reasons. A disciplinary proceedings in the given circumstances of the case has to be completed before any order treating the period of absence as "dies-non" is passed. There cannot be any deviating from the said procedure.'* The similar principles have been followed in another decision of the Gauhati High Court in **Tapan Majumder vs. State of Tripura and others**, reported in **(2007) 3 GLR 444**. Even this Court has passed a decision in **Pradip Bhaumik vs. State of Tripura and others** [judgment and order dated 06.03.2014 in W.P.(C) No.159 of 2013] following the similar principles. It is to be noted that in the judgment of **Arunangshu Roy vs. State of Tripura &**

Others, it has been mentioned that no word like dies-non is occurring in the Tripura Civil Services (Leave) Rules, 1986, but the said words, dies non, is occurring in the Rule 24 of the said Rule but that form of dies-non can only be declared when the employee was absenting from the service without taking prior sanction of the leave and when he applied for the leave, no leave was available in his leave account. The term, dies-non, as has been occurring in Rule 24 of the Tripura Civil Services (Leave) Rules, 1986 is not a penal one. But dies-non can be penal in nature, if that is passed under F.R.17A. Principles as laid down in **Arunangshu Roy vs. State of Tripura & Others** having been fundamental in nature have to be mandatorily followed by the competent authority inasmuch as dies-non has its serious impact and consequence on the financial benefit of the employee, whether it is with break of service or without break of service. As such, without resorting to a disciplinary proceeding as indicated, no order of dies-non shall be passed by the competent authority. In these cases, even no notice was issued asking the petitioner to explain why their absence should not be declared as dies-non, to say least of the departmental proceedings.

[5] Mr. S. Deb, learned senior counsel has fairly acceded that position that without adopting procedure as enunciated by the decision in **Arunangshu Roy vs. State of Tripura & Others**, the impugned order of dies-non by the memorandum under No.F.15(2)-SE/GIA/2014 dated 29.11.2014, Annexure-P/6 to the

writ petitions, has been passed. It is also not in dispute that the competent authority has deducted one day's salary from the petitioners in view of the said memorandum dated 29.11.2014. It is apparent that there is a consensus at the bar that the impugned memorandum dated 29.11.2014 has been passed without following the procedure. As such, this Court has no hesitation to quash the memorandum dated 29.11.2014 declaring 27.11.2014 as dies-non without break in the tenure of the petitioners. But the respondents will be at liberty to reconsider whether the absence on 27.11.2014 should be declared dies-non or not, after the disciplinary proceeding being initiated against each of the petitioners and obviously on affording them all reasonable opportunities to lay their defence or explanation, if any.

[6] The question of release of the salary for the day of 27.11.2014 shall be decided on the basis of the outcome of the said disciplinary proceedings. If such proceeding is not initiated within 30 days from today, the competent authority shall release the salary of the petitioners as deducted. It is further to be noted by this Court that the impugned order has been passed by the Addl. Secretary, Directorate of School Education. Even though the petitioners have not questioned his authority but obviously, the Addl. Secretary or the Director of School Education, does not have any authority or control over the services of the petitioners and for that reason, the impugned memorandum dated 29.11.2014 and all other consequential actions thereof, are unsustainable.

Since the impugned memorandum dated 29.11.2014 has been quashed, no further observation or specific direction is required to be passed. Those orders are treated to be inoperative, subject to the rider as stated. Accordingly, all the writ petitions are allowed and disposed of. However, there shall be no order as to costs.

JUDGE

Sujay