

THE HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) 276 of 2014

Sri Subhra Sankar Laskar,
Son of Dr. Santimoy Laskar,
Resident of Banamalipur Dighir par
P.O. – Agartala, P.S. – East Agartala,
District – West Tripura.

..... *Petitioner*

- Vs. -

1. The State of Tripura,
Represented by the Principal Secretary,
Rural Development Department,
Government of Tripura, Agartala.
2. The Chief Engineer,
Rural Development Department,
Government of Tripura,
P.N. Complex, Agartala.
3. The District Magistrate Collector,
West Tripura District, Agartala,
Tripura (West).

..... *Respondents*

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

For the Petitioner : Mr. D. Bhattacharji, Advocate.

For the respondents : Mr. S. Chakraborty, Addl. GA.

Date of hearing &
delivery of
Judgment & order : 25.02.2015.

Whether fit for
reporting : No

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ.)

The petitioner by means of this writ petition has challenged order dated 27th January, 2014 (Annexure-12) whereby the enhanced salary and allowances in respect of the petitioner which were not released to him pending disciplinary proceedings were approved for payment as the disciplinary proceedings had prolonged abnormally due to the complex issues involved.

2. We fail to understand how Annexure-12 affects the rights of the petitioner. Here it would be pertinent to mention that the petitioner is facing a disciplinary inquiry and the inquiry officer submitted his report on 22.11.2012 which was in favour of the petitioner. Thereafter, the disciplinary authority did not agree with the report. The petitioner challenged the action of the respondents and filed W.P.(C)396 of 2013 before this Court. The matter came up before one of us (S.C. Das, J.). In the said Judgment it was held that before sending the matter back to the inquiry officer the disciplinary authority was bound to give a hearing to the writ petitioner and thereafter, the following order was passed:-

"Therefore, the disciplinary authority is directed to supply the copies of the inquiry report along with the reasons assigned by the disciplinary authority in respect of his disagreement with the report of the inquiring authority for whatever reasons it may be and after supplying those copies further inquiry as desired by the disciplinary authority may proceed."

3. Effectively what was ordered was that before any adverse order against the petitioner is passed he should be given a copy of the inquiry report along with the reasons of the inquiry officer for disagreeing with the inquiry report. The petitioner filed this petition and only made reference to the order dated 26th December, 2013 and his grievance is that the judgment of the learned Single Judge has not been complied. Shockingly the petitioner did not disclose to this Court while filing the writ petition and before obtaining a stay order that on 26th December, 2013, the disciplinary authority had sent a detailed show cause notice to the petitioner to show cause giving reasons why he disagreed with the order of the inquiring officer. The said order reads as follows:-

"ORDER

Whereas, a disciplinary proceeding under Rule 14 of the Central Civil Services (Classification, control and Appeal) Rules 1965 was held and charges were framed against Shri Subhra Sankar Laskar, J.E (RD) by the Disciplinary Authority (D.M & Collector), West Tripura vide Memo No.F.7(9)-DM/W/ESTT/2011/10320-25 dated 07.10.2011 when he was posted in the O/o the Block Development Officer, Mohanpur /R.D. Block (now posted in the O/o the BDO, Jirania R.D. Block),

AND

Whereas, charges were framed against Shri Subhra Sankar Laskar, J.E. (RD), the undersigned had considered necessity to hold inquiry of the charges and consequent upon of which Shri Khudiram Tripura, Superintending Engineer, R.D. 2nd Circle, South Tripura, Udaipur had been appointed by the Disciplinary Authority (D.M. & Collector), West Tripura vide order No.F.7 (9)- DM / W / ESTT / 2011 /11760-66 dated 19.12.2011 to inquire into the charges framed against the said Shri Laskar, J.E (RD),

AND

Whereas, Shri Khudiram Tripura, Superintending Engineer, R.D. 2nd Circle, South Tripura, Udaipur, being the Inquiring Authority, after having heard and recording the evidence, has furnished his report vide

**No.F.11(1)/SE/RDC-II/NQ/UDP/S/2011-12
22.11.12,**

dated

AND

Whereas, during the course of inquiry, the evidence in the form of assessment report had inherent lacuna as certain critical information was found missing and I.O. (JE) of the work had requested for reassessment of work in meeting with C.E, R.D. Deptt. On 16.08.2011 as reflected in the letter of S.E. of O/o the C.E. R.D. Deptt. vide No.F.CE/RD/PER(JE)SSL/11-12 dt. 17.08.2011, the reassessment of work was ordered vide dated 25.09.2012 before the submission of the inquiry report by the Inquiring Authority,

AND

Whereas, the reassessment report of S.E., R.D. 1st Circle, Agartala was submitted to this office vide dated 01.03.2013, 24.08.2013 and 03.09.2013,

AND

Whereas, it is noticed that the findings of the re-assessment report indicate that the earlier assessment report was defective & had several lacunas. As the assessment report is the key documentary evidence for the Inquiry as well as Disciplinary Proceeding, Disciplinary Authority (D.A) vide letter No.F.1(1)-DM/W/ESTT/RDWD-I/Allegation/2011/2403-06 dated 22.10.2013 ordered to Shri K. Tripura, S.E., R.D. 1st Circle, Agartala (Inquiring Authority) vide No.F.1 (1)-DM/W/ESTT/RDWD-1/Allegation/2403-06 dated 22.10.2013 for holding further inquiry against earlier charges as instituted earlier as per Rule 14(15) and rule 15 of the CCS(CCA) Rules, 1965,

AND

Whereas, in the event of conducting further inquiry of charges in respect of J.E. Shri Subhra Sankar Laskar, the Hon'ble High Court of Tripura, Agartala, in WP© No.396 of 2013 (Subhra Sankar Laskar Vs State of Tripura & Ors) has transmitted Order vide dated 13.12.2013 upon the Disciplinary Authority to supply the copies of the inquiry report alongwith the reasons assigned by the D.A. in respect of his disagreement with the report of the I.A for whatever reasons it may be and after supplying those copies further inquiry as desired by the D.A may proceed,

AND

Whereas, the reasons for further inquiry has been stated in para 4 & 5 above as has already been communicated to the A.O. vide letter No.F.1(1)-DM/W/ESTT/RDWD-1/Allegation/2011/2891 dated 2nd December, 2011 and the undersigned has been directed by the Hon'ble High Court of Tripura, Agartala to supply the findings of the Inquiring Authority,

AND

Whereas, Shri Subhra Sankar Laskar, J.E. deserves to have a view on the findings of Inquiring Authority, a copy of which is enclosed herewith for his perusal.

AND

Further, it is to be mentioned here that there is no disagreement between the I.A. & D.A on the inquiry report and the further inquiry is ordered only to address the defect & lacuna in the earlier assement (sic) report as mentioned above.

Now therefore, the undersigned hereby allows Shri Subhra Sankar Laskar, A.O. (JE) to submit representation, if he so desires, to the undersigned.

***(Kiran Gitte, IAS)
Disciplinary Authority
(District Magistrate & Collector)
West Tripura District.***

***To
Shri Subhra Sankar Laskar, JE(RD)
O/o the B.D.O., Jirania R.D. Block***

Copy to:-

***Shri Khudiram Tripura, Inquiring Authority (S.E.,
R.D. 1st Circle, Agartala, West Tripura) for kind
information."***

We find that copy of this order dated 26th December, 2013 was received by the petitioner on the same date as is apparent from his signature along with date on the annexure itself.

4. Writ petitions are decided on the basis of the pleadings of the parties duly supported by annexure. The petitioner tried to convey an impression that the directions given by the Single Judge had not been complied with. These directions have been complied with as is apparent from the notice quoted above. At this stage, it is urged by learned counsel that even in the order dated 26th December, 2013 reference has been made to some new evidence

which has been taken into consideration. It is submitted that this evidence cannot be taken into consideration.

5. We are not going into this aspect of the matter because of the stand taken by the petitioner. He has not approached this Court with clean hands. We cannot be oblivious of the fact that though the inquiry was started in the year 2011, in 2013 the petitioner came to Court and further proceedings were stayed. After the Single Judge passed the order for issuing notice to the petitioner, the said notice was sent to him in December, 2013 and he again approached this Court and has obtained stay against further disciplinary proceedings. We are not clear whether the petitioner has filed reply to the notice dated 26th December, 2013 or not. If he has not done so he may do so within 15 days from today and if he fails to file any reply within 15 days, the disciplinary authority shall decide the matter in the absence of any reply.

6. The petitioner is at liberty to take all defences available to him and the disciplinary authority shall consider the same strictly in accordance with law. In case, the disciplinary authority directs that the inquiry officer must complete the inquiry, the petitioner will join the inquiry proceedings and not delay the same any further.

7. In view of the conduct of the petitioner, we will not entertain any writ petition against the order of the disciplinary authority even if it be against him and he will have to face the inquiry proceedings and he shall be at liberty to challenge all the orders if the final order is against him.

8. Therefore, we find no merit in the petition, which is accordingly dismissed.

JUDGE

CHIEF JUSTICE

sima