HIGH COURT OF TRIPURA
AGARTALA

WP(C) 48 of 2022

92020374 HAV (GD) Samir Chandra Das ……. …… Petitioner(s)

Versus

State of Tripura and others ……Respondent(s)

For Petitioner(s) : Mr. S. Lodh, Advocate
Mr. S. Majumder, Advocate

For Respondent(s) : Mr. Kohinoor N. Bhattacharya, G.A.
Mr. K. De, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

04.11.2024

Heard Mr. S. Lodh, learned counsel for the petitioner. Also heard Mr. Kohinoor N. Bhattacharya, learned G.A. and Mr. K De, learned Addl. G.A. appearing for the State respondents.

[2] It is the case of the petitioner that he entered into service as a Riflemen in 2nd Battalion Tripura State Rifles by an Offer of appointment dated 15.07.1992 and thereafter, on completion of 28 years of qualifying service, he submitted a prayer for going on voluntary retirement to the appointing authority in writing mentioning all the reasons, but the respondents did not consider the prayer of the petitioner and the same was rejected. Being aggrieved, the petitioner has approached this Court by filing this writ petition.

[3] It is represented by the learned counsel appearing on behalf of the petitioner that during pendency of this writ petition for voluntary retirement, an appeal against dismissal order of the petitioner has been preferred before the respondent No.4 as a disciplinary proceeding was initiated and the same has been concluded dismissing the petitioner

from service. The said appeal is still pending before the respondent(s) and the same is not on record.

[4] In view of the above submission made by the learned counsel for the petitioner, without expressing any opinion on the merits of the case, the present writ petition is disposed of with a direction that if any such appeal as contended by the learned counsel for the appellant is filed in accordance with law, in proper order and form as per the Acts and Rules, the same be considered by the concerned respondents. A decision in that regard, be taken by the concerned respondents after giving opportunity to the petitioner as expeditiously as possible preferably within a period of four months from the date of receipt of the copy of this Order.

[5] Since the writ petition was initiated for considering the request of the petitioner for voluntary retirement and during the pendency of this writ petition, disciplinary enquiry concluded by dismissing him from service and an appeal against the dismissal order has been preferred by the petitioner before the concerned respondent which is pending too, it is needless to observe that both the prayer for voluntary retirement and the dismissal of service are different and distinct. Thus, the petitioner is at liberty to agitate the same and the doctrine of *res judicata* would not come into play.

With the above observation and direction, the present writ petition is disposed of. As a sequel, miscellaneous application(s), if any, shall also stand closed.

JUDGE

Sabyasachi G.