

THE HIGH COURT OF TRIPURA
AGARTALA

W.A. NO. 31 OF 2009

1. The State of Tripura,
Represented by the Secretary,
Department of Fisheries,
Government of Tripura, having his
Office at Civil Secretariat, Agartala,
West Tripura,

2. The Director,
Directorate of Fisheries,
Government of Tripura,
West Tripura, Agartala.

..... **Appellants.**

- V e r s u s -

Sri Goutam Sengupta,
S/O. Late Nalini Ranjan Sengupta,
Resident of village – Pandit Kali Prasanna
Sarani, Banamalipur, P.S. East Agartala,
District _ West Tripura,

..... **Respondent.**

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

For the appellants : Mr. J. Majumder, Advocate.

For the respondent : Mr. Somik Deb, Advocate.

Date of hearing and : 30.05.2013.
delivery of judgment
and order.

Whether fit for reporting : **Yes / No.**

JUDGMENT & ORDER (ORAL)

Deepak Gupta.CJ

This appeal by the State is directed against the judgment delivered by the learned Single Judge of the Gauhati High Court, Agartala Bench in W.P.(C) No.160 of 2008, decided on 19.08.2009, whereby he allowed the writ petition and

quashed the disciplinary proceedings against the writ petitioner (respondent herein).

2. The allegation against the petitioner is that when he was working in the Directorate of Fisheries as Fishery Officer in the year 1991-92 he defalcated an amount of approximately Rs.4,00,000/-. The writ petitioner was placed under suspension in the year 1992 and continued to remain under suspension till 19.01.2006 when the suspension order was revoked.

3. Criminal proceedings were also launched against the petitioner and he was acquitted in the criminal case on 22.12.2011. Disciplinary proceedings were also initiated against the petitioner, but remained pending for many long years. Though the petitioner was placed under suspension in the year 1992, the enquiry proceedings against him were only initiated sometime on 28.07.1999. This also remained pending for many long years and finally the Inquiry Officer vide his enquiry report dated 25.11.2005 exonerated the petitioner on various grounds including the ground that the Presiding Officer could not produce the documents to prove the case as certain documents had been taken over by the police in the criminal proceedings.

4. The Inquiry Officer also held that the incident had taken place in the year 1991-92 and the proceedings had continued for 14/15 years and no fruitful result could be obtained. The disciplinary authority disagreed with the report of

the Inquiry Officer and directed further enquiry to be conducted after conclusion of the criminal proceedings against the writ petitioner. Admittedly this order dated 04.09.2008 was passed without issuing notice to the writ petitioner.

5. The writ petitioner challenged this order before the learned Single Judge, who quashed the order on the ground that the said order was wrong in law since the order was passed without issuing notice to the writ petitioner. As far as this issue is concerned, this Court in W.A. No. 25 of 2009 (Sri Swapan Bhattacharjee V. State of Tripura & ors.) has also taken a similar view and Mr. J. Majumder, learned counsel appearing for the State fairly submits that in view of the law laid down in this judgment, it will not be open for the State to challenge the decision of the learned Single Judge in so far as this part of the judgment is concerned.

6. However, Mr. Majumder submits that the learned Single Judge erred in quashing the entire departmental proceedings. He submits that in fact there was no clear cut prayer made in this behalf. To some extent Mr. Majumder is right since we find that there was no specific prayer for quashing the entire disciplinary proceedings, but on perusal of the entire writ petition, we find that the petitioner had raised the ground of delay and if the prayer Nos. iii and iii(a) are seen, they do

indicate that the petitioner had prayed that no further action should be taken against him.

7. The only question to be decided is whether the learned Single Judge was right in quashing the disciplinary proceedings on the ground that they were highly belated. The learned Single Judge has relied on a number of judgments of the Apex Court while coming to the conclusion. These are: (1) **State of Madhya Pradesh V. Bani Singh & anr., 1990 (supp) SCC 738**, (2) **State of Arunachal Pradesh V. N. Radhakishan, (1998) 4 SCC 154**, and (3) **M.V.Bijlani V. Union of India & ors., (2006) 5 SCC 88**.

8. Each case has to be decided on its own merit and whether disciplinary proceedings should be quashed only on the ground of delay is a matter to be considered on the facts of each case. There can be no hard and fast rule in this regard. When allegations are trivial in nature then even a small delay may be sufficient to quash the proceedings. However, when the allegations are very serious then the Court will be circumspect before quashing the disciplinary proceedings.

9. In the present case, the allegation against the writ petitioner was serious inasmuch as they related to defalcation of an amount of about Rs.4,00,000/-. Having said so, the fact is that the writ petitioner has already suffered enormously. He remained under suspension for 14 long years. He has been

acquitted by the learned trial Court on 22.11.2011 after facing a trial for almost 20 years. This is itself is a sufficient punishment which the accused has undergone. So, we feel that this is one of those cases where the learned Single Judge was right in not remanding the case back to the Inquiry Officer to start the proceedings afresh. Therefore, we find no merit in this appeal. Accordingly, the appeal is dismissed.

JUDGE

CHIEF JUSTICE

Asim/Sujay