

**THE HIGH COURT OF TRIPURA**  
**\_A\_G\_A\_R\_T\_A\_L\_A\_**

*Writ Appeal.45 of 2013*

Shri Subhash Chandra Paul,  
S/o Lt. Parul Bala Paul,  
Madhya Pratapgarh, PS. East Agartala,  
District - West Tripura.

..... *Appellants.*

- Vs -

1. The State of Tripura,  
To be represented by the Secretary,  
Department of Health Services,  
Government of Tripura, Civil Secretariat Complex,  
P.O. Kunjaban, Agartala, West Tripura,  
Pin 799006.

2. The Director of Health Services,  
Government of Tripura, Agartala,  
P N Complex, Gurkhabasti, Agartala,  
PIN 799006.

..... *Respondents.*

**BEFORE**  
**HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**  
**HON'BLE MR. JUSTICE U B SAHA**

For the appellant : Mr. P Roy Barman, Advocate.  
For the respondents : Mr. J Majumder, State Counsel.  
Date of hearing and  
Delivery of judgment : 05.12.2013.  
Whether fit for reporting : No.

*JUDGMENT & ORDER(ORAL)*

( *Deepak Gupta, CJ.* )

This appeal is directed against the judgment of a learned single Judge of this Court, dated 3<sup>rd</sup> July, 2013, passed in WP(C) No.81 of 2004 whereby he allowed the writ petition filed by the

present appellant, set aside the order terminating his services as well as the appellate order dismissing his appeal (even though the appellate order had not been challenged before the learned single Judge) but permitted the State to initiate disciplinary proceedings and hold proper inquiry. As far as this portion of the order is concerned the appellant has no grievance. The grievance of the appellant is that after giving these directions the learned single Judge further directed that the appellant may not be reinstated in service till the completion of the inquiry and if the inquiry goes in his favour he will be entitled to be reinstated with all service benefits retrospectively both pecuniary and others.

2. Sri Roy Barman, learned counsel for the appellant, submits that once the order of termination has been set aside the appellant is deemed to be in service and, therefore, at the most he could have been placed under suspension and could not have been kept in this state where he is neither in service nor out of service.

3. While considering this argument, which is attractive at first blush, we must keep into consideration the facts of the case. The services of the original writ petitioner were terminated in the year 2003 when he had put less than 3 years of service. The ground for termination was that he had wrongly shown his date of birth to be 11.01.1967 whereas in fact it was 11.01.1957. If the date of birth is 11.01.1957 then the petitioner would not have been entitled to join

service at all. This goes to the very root of the matter and if the petitioner was not entitled to join in service at all he cannot be given the benefit on the last 10 years pay and allowances only because the order has been set aside on technical grounds.

4. Public money is involved and the interest of the appellant has been protected by the learned single Judge by observing that if the inquiry proceedings are decided in favour of the appellant then he shall be entitled to all benefits pecuniary and otherwise.

5. The writ Court while allowing a writ petition can mould the relief keeping in view the circumstances of the case and in view of the facts and circumstances of this case, we are of the considered opinion that the learned single Judge was absolutely right in moulding the relief in this particular fact. We, therefore, find no merit in the appeal which is accordingly dismissed.

**JUDGE**

**CHIEF JUSTICE**

*Sukhendu*