

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WP(C) No.513 of 2010

Sri Krishna Ghosh,
S/o Sri Sunil Ghosh,
resident of Village & P.O. Khas Noagoan,
P.S. Bodhjunnagar, District - West Tripura.

..... *Petitioner.*

- Vs -

1. **The State of Tripura, Agartala**
(represented by the Secretary to the Government of
Tripura, Home Department), Civil Secretariat,
Capital Complex, P.O. Kunjaban, Agartala, West Tripura.
2. **The Director General of Police,**
Government of Tripura, P.O. Agartala,
District - West Tripura.
3. **The Deputy Inspector General of Police**
(AP & OPS) Government of Tripura,
P.O. Agartala, District - West Tripura.
4. **The Commandant, 2nd Bn.,**
Tripura State Rifles, R. K. Nagar, (Farm Complex),
P.O.- Khas Noagaon - 799 008, Tripura West.

..... *Respondents.*

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

For the petitioner : Mr. R K P Singh, Advocate.

For the respondents : Ms. A S Lodh, Addl. G. A.,
Mr. J. Majumder, State Counsel.

Date of hearing & Judgment : 30.06.2015.

Whether fit for reporting :

Yes	No
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JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

By means of this petition, the petitioner has prayed for quashing of the inquiry proceedings and the order dated 18th September, 2010 dismissing him from service and the appellate order whereby his appeal had been rejected.

2. Briefly stated, the allegations against the petitioner who was employed as a workman in the Tripura State Rifles (TSR) were that while obtaining employment he had produced a false and forged certificate showing that he had passed Class VIII whereas in fact he had not passed Class VIII which was the minimum eligibility qualification for filling up this post. An inquiry was conducted in the matter and the inquiry officer after inquiry found that the petitioner had obtained the job by submitting a false certificate. Thereafter the disciplinary authority accepted the report of the inquiry officer and passed the impugned order. The appeal filed by the petitioner has also been rejected. Hence the writ petition.

3. The main ground raised by Mr. R K P Singh, learned counsel for the petitioner is that the rules of natural justice have been violated. He also submits that the inquiry was conducted under CCS (CCA) Rules whereas the proper procedure should have been followed under the Tripura State Rifles (Discipline, Control, Service Conditions etc) Rules, 1986.

4. As far as the second contention is concerned, we agree with Mr. R K P Singh that when there are specific Rules they should have been followed. However, mere wrong mention or non-mention of the Rules will not render any action *void* unless it is shown that there is violation of the expressed provision of the Rules. We may also mention that the Tripura State Rifles Act, 1983 itself mentions that the Central Civil Service(Pension) Rules, 1972 will be applicable but that would be so only when Tripura State Rifles(Discipline, Control, Service Conditions etc) Rules, 1986 are silent.

5. As far as the present case is concerned, the main grievance is that the petitioner was not permitted to appoint a defence assistant and did not have proper assistance to cross-examine the witnesses. We had called for the inquiry proceedings and we find that on 7th June, 2009 the petitioner appeared before the inquiry officer after receipt of notice and submitted a written application praying for one month's time to appoint defence assistant. This time was granted. The petitioner, however, did not send the name of any defence assistant within the period of one month.

6. Thereafter on 18th August, 2009 notice was sent to the petitioner to appear for preliminary hearing on 20th August, 2009. The petitioner appeared before the inquiry officer on 20th August, 2009 and stated that he had received all the documents relating to the inquiry proceedings. He also stated that he would defend the

case himself as he could not arrange the defence assistant. Both these orders have been counter-signed by the petitioner. The petitioner has clearly stated that he does not need any defence assistant and he himself would cross-examine the witnesses. As such we find no error in the proceedings. The findings of fact arrived at by the inquiry officer are based on the evidence led before it and they cannot be said to be perverse findings of fact. Therefore, we find no merit in the petition which is, accordingly, dismissed.

JUDGE

CHIEF JUSTICE