

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 282 of 2021**

For Petitioner(s)	: Mr. TK Choudhury, Adv.
For Respondent(s)	: Mr. N. Majumder, Adv. Ms. S. Deb, Adv.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

29/04/2022

Heard Mr. T. K. Choudhury, learned counsel appearing for the petitioner. Also heard Ms. S. Deb, learned counsel appearing for the respondent No. 1 and Mr. N. Majumder, learned counsel appearing for the respondents No. 2, 3 & 4.

At the outset it requires to be noted that respondents No. 2, 3 & 4 despite providing several opportunities have not filed their reply. Even they have not produced any record.

The petitioner by means of this writ petition has urged this court for directing the respondents No. 2, 3 & 4 in particular for making payment of the petitioner's pay and allowance for the duty period since 19.06.2019 with all the arrears by accepting his joining report.

It appears from the show cause notice dated 17.03.2020 [Annexure 9 to the writ petition] that the Managing Director, Tripura State Electricity Corporation Limited (TSECL for short) issued a show cause notice on 17.03.2020 [Annexure 9 to the writ petition] in the backbone of certain facts and in the following manner:

"Whereas, 2(two) nos. notice issued by the Sr. Manager, ESD-Salema, Dhalai to Md. Amir Khan, Helper Grade – II (Fixed Pay) vide No. F. 2(4)/Sr. M/ ESD/ SLM/ 15-16/ 817-18 dated 15.03.2016 and No. F. 2(4)/Sr. M/ ESD/SLM/15-16/320-21

dated 12.08.2015 which had not been replied by him. FIR was lodge to the In-Charge, Salema Police Station, Dhalai by the Sr. Manager, ESD-Salema, Dhalai vide No. F. 2(15)/Sr.M/ESD/SLM/16-17/106-08 dated 07.05.2016 and wanting report vide No. F. 2(15)/Sr.M/ESD/SLM/19-20/565 dated 20.12.2019 and report obtained from the Salema Police Station vide No. 8768 dt. 30.12.2019.

AND

Whereas, an Affidavit from the Notary, Kamalpur Sub-Division, Dhalai on behalf of illness of Md. Amir Khan, Helper Gr. -II (Fixed Pay) regarding treatment under local "Kabiraj (Rural spiritualist) from 23.07.2015 to 18.06.2019. He has joined on 19.06.2019 with joining report and leave application applied for sanction of Extra Ordinary Leave for that period."

Thereafter, in that perspective fact, the petitioner was asked to show cause why action under Rule F.R. -17 of FR SR Part – I should not be initiated against the petitioner for such un-authorized absence from TSECL/ Government duties.

From the said show cause notice dated 17.03.2020 it emerges that on 19.06.2019 the petitioner resumed his duties. In response to the notice the petitioner filed the reply on 27.03.2020 by stating that during the period of absence he was undergoing treatment under a "Kabiraj" (Rural Islamic Spiritualist). According to him, the absence was not wilful and hence, he asked the authority not to take any action on the show cause notice and further urged not to take any action under F.R. 17 as contemplated.

A similar show cause notice was issued again on 29.07.2020 [Annexure 11 to the writ petition] by the Managing Director, TSECL asking why the appropriate action under F.R-17 A will not be taken against the petitioner. The purpose of issuing the show cause notice dated 29.07.2020 as it is understood is that by the previous show cause notice dated 17.03.2020 the action was sought to be taken under F.R. 17, thus the appropriate section was not cited. Hence, by the subsequent show cause notice dated 29.07.2020 that was corrected. The petitioner had also replied to that show cause notice on 13.11.2020 and tendered his apology for his inability to attend the duties, which according to him, was

entirely unintentional. Therefore, he has prayed for exoneration without taking any further action. He has also urged for accepting his joining report dated 19.06.2019.

From scrutiny of Annexure – 13 to Annexure 23 which are the absentee statement for line staffs of Salema call office & 33KV s/s under ESD, Salema, it transpires that the petitioner has been attending duties since 19.06.2019. But the petitioner was not given his pay and allowances for the said period.

By another communication dated 06.08.2020, the Senior Manager, Electrical Sub-Division, Salema, Dhalai Tripura asked the petitioner to submit the medical certificate of fitness [Annexure 24 to the writ petition] and the petitioner had submitted the medical certificate of fitness without delay on 07.08.2020 [Annexure 25 of the writ petition]. The grievance of the petitioner is that, even thereafter, his pay and allowances has not been released as *his joining report was not formally accepted*.

The Respondent No. 1 has filed the reply. Along with the reply, the communication dated 15.10.2019 is available. It appears from that communication dated 15.10.2019 the petitioner was absent for quite a long time from 23.07.2015 to 18.06.2019 about for a period of 1428 days. The said absence has not been regularized as yet. Even though the show cause notices were issued and the petitioner filed their reply, no further action has been taken by the competent authority in TSECL.

The purpose of the show cause is abundantly clear that is to declare the period of absence *as dies non* with or without break in the service, not beyond that.

In such circumstances, the respondents are directed to release the pay and allowances for the working period w.e.f. 19.06.2019 and to take appropriate decision on the show cause notice dated 29.07.2020 [Annexure 11 to the writ petition] after affording opportunity of personal hearing to the petitioner. Such decision shall be taken within 6(six) weeks from the date when the petitioner shall furnish a copy of this order.

In terms of the above, this writ petition stands disposed of.

There shall be no order as to costs.

A copy of this order be furnished to Mr. N. Majumder learned counsel appearing for the respondents No. 2, 3 & 4.

JUDGE

