

**HIGH COURT OF TRIPURA  
AGARTALA**

WP(C) No.695 of 2022

**Sri Kabir Uddin,**

S/O. Mobaswar Ali

Presently residing at-Vill. & PO: Kalachara,

PS: Kadamtala, District: North Tripura.

**....Petitioner(s)**

**Versus**

**1. The State of Tripura**

Represented by the Principal Secretary,  
Department of Home, New Secretariat Building,  
New Capital Complex, Agartala, West Tripura.

**2. The Inspector General of Police, AP(OPS)**

Tripura, Agartala, Revisional Authority.

**3. The Deputy Inspector General of Police, AP(OPS),**

Tripura, Agartala, Appellate Authority.

**4. The Commandant, 13<sup>th</sup> Bn. TSR(IR-IX),**

Subhas Nagar, Kanchanpur, North Tripura,  
Disciplinary Authority.

**5. The AC, 13<sup>th</sup> Bn TSR(IR-IX), Enquiry Authority.**

**....Respondent(s)**

For the Petitioner(s)

:

Ms. R. Purkayastha, Advocate

For the Respondent(s)

:

Ms. A. Banik, Advocate

Date of hearing  
and delivery of  
judgment & order

:

**28.06.2023**

Whether fit for reporting

:

**Yes**

**HON'BLE MR. JUSTICE ARINDAM LODH**

**Judgment & Order (Oral)**

Heard Ms. R. Purkayastha, learned counsel appearing for the petitioner. Also heard Ms. A. Banik, learned counsel appearing for the respondents-State.

2. By means of filing the instant writ petition, the petitioner has challenged the order of penalty of compulsory retirement imposed upon him by the respondents vide final order dated 30.03.2022.

3. Briefly stated, while the petitioner was discharging his duties as a Rifleman(GD) under the respondents, he entered into second marriage during the subsistence of the first marriage without obtaining prior permission from the competent authority. On receipt of complaint by the first wife, a disciplinary proceeding was initiated. On the basis of inquiry report and on consideration of the representation of the petitioner, the disciplinary authority imposed the penalty of compulsory retirement. The petitioner preferred statutory appeal before the appellate authority. The appellate authority confirmed the order of penalty passed by the disciplinary authority. Thereafter, the petitioner had preferred revision application under Section 18(C) of the Tripura State Rifles Act, 1983, as amended up to 3<sup>rd</sup> Amendment dated 31.12.2010(for short, TSR Act, 1983).

4. The revisional authority in exercise of his power under Section 18(C), rejected the revision application submitted by the petitioner and thereby upheld the order of penalty imposed upon the petitioner by the disciplinary authority as confirmed by the appellate authority.

5. Being aggrieved, the petitioner has approached this Court by way of filing the instant writ petition challenging the legality and propriety of the impugned order.

6. Ms. Purkayastha, learned counsel for the petitioner, at the very outset, has drawn my attention that the appellate authority and the revisional authority are one and same. The concerned officer acting as appellate authority had passed the impugned order dated 28<sup>th</sup> November, 2021 confirming the penalty imposed upon the petitioner. It is contended that the same officer in exercise of his power under Section 18(C) of the TSR Act, 1983 acted as revisional authority while rejecting the revision application filed by the petitioner. Ms. Purkayastha, learned counsel has submitted that the power of revision being exercised by the same officer who acted as appellate authority also is illegal and arbitrary and is liable to be set aside.

7. On the other hand, Ms. Banik, learned counsel for the respondents has tried to defend the action of the respondents. Ms. Banik, learned counsel has submitted that the petitioner has committed serious

misconduct by way of entering into second marriage without obtaining prior permission from the competent authority.

8. I have considered the submissions of learned counsel appearing for the parties and have taken note of Section 18(C) of TSR Act, 1983. Section 18(C) of TSR Act, 1983 is reproduced here-in-below, for convenience:

***“18C. Power of Revision-***

*The State Government or the Inspector General of Police may, on its or his own motion or otherwise, call for and examine the records of any proceedings before a General Rifles Court or a Battalion Rifles Court respectively for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and pass such order as it or he may think fit.”*

Later on, an amendment has been carried out after the words “The State Government” and before the words “or The Inspector General of Police” the words “or The Director General of Police” has been inserted. So, the Director of General of Police(DGP), Govt. of Tripura has been included as the revisional authority.

9. From the aforesaid provision, it becomes apparent that a delinquent has the right to prefer revision application before the revisional authority and the revisional authority may exercise his power to test the

correctness, legality and propriety of any finding or sentence or order passed by the disciplinary authority and the appellate authority.

**10.** In my opinion, by way of incorporating this provision under Section 18(C) of the Act, that is, the power of revision as stated above, the legislatures intended to provide further chance to an employee to agitate and challenge both the orders passed by the disciplinary authority as well as the appellate authority before the revisional authority.

Furthermore, amendment carried out, later on, clearly focussed yet another aspect, that the framers of the Act, 1983 visualised such a situation where both the appellate and revisional authorities might be one and same. Having envisioned such a situation, the framers of the Act, 1983 included the Director General of Police, Govt. of Tripura to act as revisional authority to render justice to an aggrieved delinquent employee. *Such inclusion by way of amendment was aimed to serve wider principle of justice that justice must not only to be done, but should manifestly seen to be done as well. According to me, observance of this principle is also necessary to instill confidence in the mind of the aggrieved party.*

*(Emphasis supplied)*

**11.** In the instant case, the appellate authority and the revisional authority appear to be one and same. The Officer who exercised his jurisdiction as appellate authority also acted as revisional authority. This has turned the appeal by way of revision application from *Caesar* to

*Caesar. Further, such action by the same person acting as both appellate authority as well as revisional authority will tantamount to an act of bias which leads to arbitrariness, and thus results violation of principles of natural justice. Natural justice is the essence of fair adjudication, which is to be ranked fundamental. The purpose of following the principles of natural justice is the prevention of miscarriage of justice. The doctrine of bias is now applied not only to judicial matters, but also to quasi-judicial and administrative matters. In view of this, the revisional authority must be a different person other than the person who acted as appellate authority. All this would be conducive to principles of fairness and fairplay, and transparency in public administration. Dealing with the issue of bias, Hon'ble Supreme Court in **Mahapatra vs State of Orissa** reported in **AIR 1984 SC 1572** held that *apart from the direct personal interest, the test would be to consider the real likelihood of bias. In other words, probability of bias is sufficient to invalidate the right to sit in judgment and there is no need to have the proof of actual bias.* Needless to mention that the concerned officer exercising his power as the appellate authority already had dealt with the report of the inquiry authority *vis-à-vis* the findings of the disciplinary authority, and after being satisfied had arrived at his own finding upholding the order of penalty passed by the disciplinary authority.*

*(Emphasis supplied)*

In the light of above, the impugned order passed by the revisional authority i.e. the Inspector General of Police is not sustainable in law.

**12. Conclusions:**

On a conspectus of above analysis of law and facts relevant to the point raised here-in-above, the impugned order dated 21<sup>st</sup> May, 2022 passed by the revisional authority is hereby set aside and quashed. Accordingly, the instant writ petition filed by the petitioner, Kabir Uddin stands allowed.

However, to ensure complete and equitable justice, I refer the matter to the Director General of Police(DGP), Government of Tripura to exercise his power as revisional authority and decide the revision application filed by the petitioner on merits without being influenced by any of the observations made by this Court in this judgment. It is made clear that setting aside of the impugned order dated 21<sup>st</sup> May, 2022 will not entail the petitioner to rejoin in service till the order is passed by the revisional authority. It is further made clear that the DGP shall decide the revision application and pass necessary order as contemplated under Section 18(C) of the TSR Act, 1983 within a period of 6(six) weeks from the date of receipt of the certified copy of this judgment and order.

**JUDGE**