

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.354 of 2024**

Sri, Ajoy Ranjan Das,
son of Nabin Chandra Das,
resident of Village & P.O.-Durjoynagar,
P.S. Airport, District-West Tripura,
Pin-799009

----- Petitioner(s)

Versus

1. ****

2. The Chairman,
Tripura Public Service Commission,
Akhaura Road, Agartala,
P.O.-Agartala, P.S. West Agartala,
District-West Tripura

3. The Secretary,(Disciplinary Authority)
Tripura Public Service Commission,
Akhaura Road, Agartala,
P.O.-Agartala, P.S. West Agartala,
District-West Tripura

4. The Under Secretary,
General Administration (AR) Department,
Tripura Public Service Commission,
Akhaura Road, Agartala,
P.O.-Agartala, P.S. West Agartala,
District-West Tripura

**5. The Inquiry Authority of Departmental
Proceeding of the petitioner,**
office of the Tripura Public Service Commission,
Akhaura Road, Agartala,
P.O.-Agartala, P.S. West Agartala,
District-West Tripura

****As per Hon’ble Court’s order dated
20.11.2024 passed in I.A.No.01/2024,
respondent No.1 has been strike off.

-----Respondent(s)

For Petitioner(s)	: Mr. Anjan Kanti Pal Adv. Mr. Tushar Kanti Bhattacharjee, Adv.
For Respondent(s)	: Mr. Raju Datta, Adv.
Date of Hearing	: 31.07.2025
Date of Judgment & Order	: 07.08.2025
Whether fit for reporting	: YES/NO

HON'BLE MR. JUSTICE BISWAJIT PALIT**Judgment & Order**

This writ petition has been filed by the petitioner for setting aside/quashing/cancellation of the memorandum dated 08.09.2023 vide No.F.1(92)ADMN/TPSC/2016, inquiry report dated 16.01.2024, order of disciplinary authority vide No.F.1(92)-ADMN/TPSC/2016/1568 dated 06.02.2024 and also the order of appellate authority vide No.F.1(92)-ADMN/TPSC/2016(Part-I)11 dated 01.04.2024 with a further prayer for reinstatement of the petitioner to his service.

[02] Heard Mr. A.K. Pal along with Mr. T. Bhattacharjee, Learned counsel appearing on behalf of the petitioner as well as Mr. R. Datta, Learned counsel appearing on behalf of the respondent-TPSC.

[03] At the time of hearing, Mr. A.K. Pal, Learned counsel appearing for the petitioner drawn the attention of the Court that the petitioner is a bonafide citizen of India was engaged as a Group-D employee (Peon) under TPSC. He joined as a fixed pay employee on 12.08.2015 and later on, his service was regularized in the year 2020 and he discharged his service satisfactorily to the utmost satisfaction of the authority till 2023. But, according to Learned counsel for the petitioner, the respondent TPSC by office order dated 14.06.2023 informed him that a disciplinary proceeding is contemplated against him and by the said order, he was placed under suspension with immediate effect. Thereafter, by the order dated 11.09.2023 his period of suspension was further extended for ninety days which was again extended for further period of sixty days by order dated 08.12.2023. Prior to that, by the memorandum dated 08.09.2023, he was informed that a disciplinary proceeding will be initiated against him with the following Article of Charges and he was asked to submit his written statement of defence within ten days. For the sake of convenience, the statement of Article of Charges framed against the petitioner are mentioned hereinbelow :

STATEMENT OF ARTICLE OF CHARGES FRAMED AGAINST SRI AJOY RANJAN DAS, PEON, TRIPURA PUBLIC SERVICE COMMISSION, AGARTALA.

ARTICLE-I

Sri Ajoy Ranjan Das, Peon, TPSC on 05-06-2023 misbehaved and shouted rudely with Smt. Manika Shil, UDA, TPSC while she asked Sri Ajoy Ranjan Das, Peon to perform an official duty and he told Smt. Shil that he could not do that. Rather he asked her rudely to perform the work by herself without asking him further. On 6-06-2023 again Sri Ajoy Ranjan Das threatened her not go ahead with the incident held on 5-06-2023 otherwise she has to face the dire consequences.

The aforesaid activities of Sri Ajoy Ranjan Das, Peon, TPSC is most unbecoming and insubordination on the part of a public servant and tantamount to breach of Rule 3(1) of The Tripura Civil Services (Conduct) Rules, 1988.

ARTICLE-II

Sri Ajoy Ranjan Das, Peon of the Tripura Public Service Commission was habituated to leave the office to his caprices and whims regularly without prior permission to his higher authority during the office hour which was clear insubordination and his such unauthorized absence without proper and valid permission seriously hampered the office work.

A show cause notice was served on 06-01-2023, but Sri Ajoy Ranjan Das, Peon, TPSC did not care to reply to the show cause notice just stated.

The aforesaid activities of Sri Ajoy Ranjan Das, Peon, TPSC is most unbecoming and insubordination on the part of a public servant and tantamount to breach of Rule 3(1) of The Tripura Civil Services (Conduct) Rules, 1988.

ARTICLE-III

Sri Ajoy Ranjan Das, Peon, TPSC was asked to appear before the Secretary (Head of Department & Appointing authority), TPSC on 25th January, 2023 at 11.00 AM in his office chamber vide Office order dated 21-01-2023.

But, Sri Ajoy Ranjan Das, Peon TPSC refused to receive the office order and did not appear before Secretary.

The aforesaid activities of Sri Ajoy Ranjan Das, Peon, TPSC is not only most unbecoming an insubordination on the part of Sri Das, but also speaks unequivocally that he has derelicted his duties by not appearing before the Secretary, TPSC on the date and time fixed which tantamount to breach of Rule 3(1) of The Tripura Civil Services (Conduct) Rules, 1988.

ARTICLE-IV

Sri Ajoy Ranjan Das, Peon TPSC is in the habit of absenting himself from office after putting his signature in the attendance register to his caprices and whims with a view to whiling away which categorically speaks that he has no devotion to duties and thus violated Rule 3(1)(ii) of the Tripura Civil Services (Conduct) Rules, 1988.

On 09-02-2023, a show cause notice was issued in favour of Sri Ajoy Ranjan Das, Peon TPSC for non complying of order regarding appearing before the Secretary in his chamber which was issued on 21-01-2023. But Sri Das, Peon, TPSC at the first instance refused to receive the notice. No reply orally and or reduced to writing whatsoever was responded to.

The aforesaid activities of Sri Ajoy Ranjan Das, Peon, TPSC is most unbecoming and insubordination on the part of a public servant and tantamount to breach of Rule 3(1) of The Tripura Civil Services (Conduct) Rules, 1988.

ARTICLE-V

Consequent upon absenting Sri Ajoy Ranjan Das, Peon, TPSC himself from the office to his caprices and whims regularly, the matter was brought to the notice of the appropriate authority, the secretary of the Commission herein, who after hearing is pleased to proceed with Sri Ajoy Ranjan Das, Peon, TPSC and towards contemplated such proceedings, Sri Das was placed under suspension w.e.f 14.06.2023.

The suspension order in question was accordingly arranged to sent to his residence through messengers namely Sri Manas Debbarma, Accountant, TPSC and Sri Biman Bhattacharjee, LDAO, TPSC but Sri Das notwithstanding presenting himself in residence refused to receive the suspension order as stated herein above which is not healthy on the part of a Govt. servant to manifest the refusal in such a manner. Sri Das also not advanced any communication verbally and or orally to those 2(two) messengers, the messengers reported.

Later on, the suspension order was sent through the whatsapp to his mobile number (9774146781) and registered post in his residence and in response to the same ultimately Sri Das acted upon by receiving the suspension order from the office on 17.06.2023. A copy of the peon book is annexed herewith which will speak for itself.

The aforesaid activities of Sri Ajoy Ranjan Das, Peon, TPSC is most unbecoming and insubordination on the part of a public servant and tantamount to breach of Rule 3(1) of The Tripura Civil Services (Conduct) Rules, 1988."

[04] It was further submitted that the petitioner has been falsely imputed by the authority concerned on the basis of a fake allegation of one Smt. Manika Shil, UDA, TPSC and false FIR was lodged against her by the under Secretary, TPSC on 09.06.2023. He submitted his written statement against the Article of Charges. In the meantime, the disciplinary authority appointed one Narayan Sankar Sengupta, Senior Librarian cum Research Officer (Retd.), Gauhati High Court, Agartala Bench as the inquiring authority to inquire into the charges leveled against him. Accordingly, the inquiring authority conducted the proceeding, took evidence both oral/documentary and after that submitted his report to the disciplinary authority. Thereafter, the disciplinary authority found the petitioner to be guilty of the alleged Article of Charges and vide memo No.F.1(92)-ADMN/TPSC/2016/1568 dated 06/02/2024 imposed punishment upon him for "compulsory retirement". After that, the petitioner preferred appeal which was also dismissed by the authority of the Department concerned and challenging the same, he preferred the writ petition before this Court.

[05] Learned counsel further drawn the attention of the Court that from the evidence on record who deposed before the inquiring authority it will be found that there was no allegation of any misbehavior or misconduct by him to said Smt. Manika Shila, UDA, TPSC but with an ulterior motive, he has been falsely imputed in the alleged Charges and a false FIR was laid against him on

the basis of minutes of the Committee constituted for the purpose of sexual harassment of woman and complain. Even, before imposing punishment upon him, no opportunity was given to him to submit his defence. Furthermore, according to Learned counsel, said Manika Shil did not submit/lodge any complaint against him, so, the entire proceeding was arbitrary with a view to harass the petitioner because before the inquiring authority, the prosecution side could not adduce any material evidence to support the Charges and the order of punishment was lacking of reasonings. Regarding issuance of showcause notice, he submitted that he never violated/disobeyed the said notice. Furthermore, he was not given any scope to appear before the sexual harassment committee and he was unaware about the orders and notices served upon him. On the basis of material evidence on record, the Charges cannot stand against the petitioner, so, according to Learned counsel serious prejudice has been caused to the petitioner. It was further submitted that the punishment imposed was too harsh. The petitioner is a person of 37/38 years and due to this order of major penalty, his entire service career has been spoiled and his family leads to starvation. So, Learned counsel for the petitioner in summing up his submission urged for setting aside the order of the disciplinary authority as well as of the appellate authority or alternatively, Learned counsel urged for imposing lesser punishment terminating the order of "compulsory retirement" for the interest of justice considering his age.

[06] On the other hand, Mr. R. Datta, Learned counsel appearing on behalf of the TPSC-respondent submitted that the act and conduct of the petitioner was all along not conducive to the interest of the Department. By his act and conduct, the petitioner exhibited continuous insubordination, rude behavior and disobedience to the official orders. He was given showcause notice but inspite of receipt of notice, he did not respond which was unbecoming for a public servant. Even, he disobeyed the order of the Secretary of the Department, he was asked to appear before the Secretary but

inspite of remaining present in the Office, he refused to accept the order and did not appear before the disciplinary authority. Again a showcause notice was issued on 09.02.2023, but the petitioner failed to respond. Not only that, on 05.06.2023, the petitioner misbehaved and shouted Manika Shil, UDA, TPSC when she was discharging official task and on 06.06.2023, he threatened her with dire consequences, if she reports the incident. Even the individual witnesses namely Asim Pal, Sanjay Chakma supported the version of said Manika Shil. The sexual harassment committee also found him guilty, even the petitioner did not bother to appear before the Committee without any cogent grounds and the FIR was lodged on the basis of threats and intimidation. It was further submitted by Learned counsel that the misbehavior of the petitioner with the senior female colleague repeated disobedience to orders, dereliction of duties, shows breach of service rules as provided under Rule 3(1) of the Tripura Civil Services (Conduct) Rules. Learned counsel further submitted that from the entire proceeding nowhere it will be found that there was any violation of principles of natural justice. It is not the case of the petitioner that no scope was given to him to submit his written statement of defence to adduce his evidence, to allow him to cross examine the witnesses of the prosecution side. So, according to Mr. Datta, Learned counsel the punishment imposed by the disciplinary authority was proportionate to misconduct. It was further submitted that the appellate authority after careful consideration of the findings of the disciplinary authority dismissed his appeal and herein this case, the petitioner could not project anything to quash the orders and to invoke the jurisdiction under Article 226 of the Constitution of India. There is also no submission from the side of the petitioner that there were procedural irregularities. So, Learned counsel, Mr. Datta submitted that at this stage there is no scope to re-appreciate the evidence on record and the order of the disciplinary authority is based on materials which has been

affirmed by the appellate authority and finally submitted that there is no merit in the writ petition and urged for dismissal of the writ petition.

[07] Learned counsel, Mr. Datta also drawn the attention of the Court referring the documents annexed with the counter affidavit. In support of his contention, Learned counsel for the respondent-TPSC relied upon one citation of the Hon'ble Supreme Court of India in **State of U.P. versus Harendra Arora and Another** reported in **(2001) 6 SCC 392** wherein in para No.5 the Hon'ble Apex Court observed as under :

"5. The aforesaid provision was virtually incorporated in Article 311(2) of the Constitution. By the Constitution (Fifteenth Amendment) Act of 1963, the scope of "reasonable opportunity" was explained and expanded and for the expression "until he has been given reasonable opportunity to show cause against the action proposed to be taken in regard to him", the expression

"except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given reasonable opportunity of making representation on the penalty proposed, but only on the basis of evidence adduced during such inquiry"

was substituted. It would thus appear that the Fifteenth Amendment, for the first time, in terms provided for holding an inquiry into the specific charges of which information was given to the delinquent employee in advance and in which he was given reasonable opportunity to defend himself against those charges. The Amendment also provided for a second opportunity to the delinquent employee to show cause against the penalty if it was proposed as a result of the inquiry. The courts held that while exercising the second opportunity of showing cause against the penalty, the delinquent employee was also entitled to represent against the finding on charges as well. It appears that in spite of this change, the stage at which the delinquent employee was held to be entitled to a copy of the enquiry report was the stage at which the penalty was proposed which was the law prevailing prior to the Amendment."

Referring the same, Learned counsel submitted that in this case the petitioner could not satisfy the Court that no reasonable opportunity was granted to him.

He further referred another citation of the Hon'ble Apex Court in **Haryana Financial Corporation versus Kailash Chandra Ahuja** reported in **(2008) 9 SCC 31** wherein in para No.34 Hon'ble the Apex Court observed as under :

"34. This Court expressed the same option. In Board of High School & Intermediate Education v. Chitra Srivastava : (1970) 1 SCC 121, the Board cancelled the examination of the petitioner who had actually appeared at the examination on the ground that there was shortage in attendance at lectures. Admittedly, no notice was given to her before taking the action. On behalf of the Board it was contended that the facts were not in dispute and therefore, "no useful purpose would have been served" by giving a show-cause notice to the petitioner. This Court, however, set aside the

decision of the Board, holding that the Board was acting in a quasi-judicial capacity and, therefore, it ought to have observed the principles of natural justice."

Referring the same, Learned counsel submitted that the petitioner in this case could not satisfy the Court that he has been prejudiced.

Learned counsel again referred another citation of the Hon'ble Supreme Court of India in **Union of India and Others versus Dulal Dutt reported in (1993) 2 SCC 179** wherein in para Nos.17 and 18 the said Apex Court observed as under :

"17. It was further observed by this Court that :

"However, this does not mean that judicial scrutiny is excluded altogether. While the High Court or the Supreme Court would not examine the matter as an appellate court, they may interfere if they are satisfied that the order is passed (a) mala fide or (b) that it is based on no evidence or (c) that it is arbitrary in the sense that no reasonable person would form the requisite opinion on the given material; in short, if it is found to be a perverse order. The remedy provided by Article 226 is no less an important safeguard. Even with its well known constraints, the remedy is an effective check against mala fide perverse or arbitrary action"

18. It will be noticed that the Tribunal completely erred in assuming in the circumstances of the case, that there ought to have been a some order for compulsory retirement. This Court has been repeatedly emphasising right from the case of R-L Butail v. Union of India, [1970] 2 SCL 876 and Union of India v. J.N. Sinha [1970] 2 SCC 458 that an order of compulsory retirement is not an order of punishment. It is actually a prerogative of the Government but it should be based on material and has to be passed on the subjective satisfaction of the Government. Very often, on enquiry by the Court the Government may disclose the material but it is very much different from the saying that the order should be a speaking order. No order of compulsory retirement is required to be a speaking order. From the very order of the Tribunal it is clear that the Government had, before it, the report of the Review Committee yet it thought it fit of compulsory retiring the respondent. The order cannot be called either mala fide or arbitrary in law."

Referring the same, Learned counsel submitted that it is not the case of the petitioner that the proceeding was mala fide and the same was based on no evidence and arbitrary.

He also referred another citation of the Hon'ble Supreme Court of India in **Central Industrial Security Force versus HC(GD) Om Prakash reported in (2022) 5 SCC 100** wherein in para No.13 the said Apex Court observed as under :

"13. There are numerous other judgments upholding the orders of premature retirement of judicial officers inter alia on the ground that the judicial service is not akin to other services. A person discharging judicial duties acts on behalf of the State in discharge of its sovereign functions. Dispensation of justice is not only an onerous duty but has been considered as discharge of a pious duty, therefore, it is a very serious matter. This Court in Ram Murti Yadav v. State of Uttar Pradesh and Another : (2020) 1 SCC 801 held as under:

"6.The scope for judicial review of an order of compulsory retirement based on the subjective satisfaction of the employer is extremely narrow and restricted. Only if it is found to be based on arbitrary or capricious grounds, vitiated by mala fides, overlooks relevant materials, could there be limited scope for interference. The court, in judicial review, cannot sit in judgment over the same as an appellate authority. Principles of natural justice have no application in a case of compulsory retirement."

Referring the same, he drawn the attention of the Court that since in the case at hand, the petitioner was imposed "compulsory retirement". So, the scope for judicial review is very limited.

Learned counsel also referred another citation of the Hon'ble Supreme Court of India in **Union of India and Others versus Constable Sunil Kumar** reported in **(2023) 3 SCC 622** wherein in para No.8 Hon'ble the Apex Court observed as under :

"8.At the outset, it is required to be noted that the disciplinary authority imposed the penalty of dismissal after holding the departmental enquiry and after following the due procedure as required under Rule 27 of the CRPF Rules, 1955 and after having held the charges and misconduct proved. The charges and misconduct held to be proved against the respondent who was serving in CRPF – a disciplined force can be said to be a grave and serious misconduct. The charges and misconduct proved against the respondent is of misbehaving with superior and giving threats of dire consequences to the superior, may be under the influence of intoxication. He also misbehaved and gave threats to the colleagues. The misconduct committed by the respondent is of insubordination also. The misconduct of misbehaving with the superior/senior officer and of insubordination can be said to be a very serious misconduct and cannot be tolerated in a disciplined force like CRPF and therefore, as such the Division Bench of the High Court is not justified in observing that on the proved charges and misconduct penalty of dismissal can be said to be disproportionate."

Referring the same, he submitted that here in the case at hand there is serious allegation of misconduct against the petitioner, so, the disciplinary authority rightly found him guilty and imposed punishment and there is no scope to interfere with the same.

Finally, he has submitted another citation of the Hon'ble Supreme Court of **India in State of Rajasthan and Others versus Bhupendra Singh** reported in **2024 SCC OnLine SC 1908** wherein in para Nos.23 and 24 Hon'ble the Apex Court observed as under :

"23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law

which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. **A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal.** See Syed Yakooob v. K.S. Radhakrishnan [AIR 1964 SC 477].

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. **The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."**

Referring the same, he submitted that the jurisdiction of the High Court is a supervisory jurisdiction, so, there is no scope to review/reassess the evidence on record at this stage and finally, Learned counsel for the respondents urged for dismissal of the writ petition.

[08] On the other hand, Learned counsel for the petitioner relied upon one citation of the Hon'ble Supreme Court of India in **Swaran Singh Chand versus Punjab State Electricity Board and Ors. in Civil Appeal No.3298 of 2009 arising out of SLP (Civil)No.20202 of 2006** wherein in para Nos.13 and 14 the said Apex Court observed as under :

13. It is a well-settled principle of law that an order of compulsory retirement would be held to be stigmatic inter alia, in the event the employer has lost confidence [See Chandu Lal v. Management of M/s. Pan American World Airways Inc. (1985) 2 SCC 727 at 730, para 8], or he has concealed his earlier record [See Jagdish Parsad v. Sachiv, Zila Ganna Committee, Muzaffarnagar and Another (1986) 2 SCC 338 at 342-343, para 9].

He can, however, be subjected to compulsory retirement inter alia if he has outlived his utility [See The State of Uttar Pradesh v. Madan Mohan Nagar, AIR 1967 SC 1260 at 1262].

In Allahabad Bank Officers' Association and Another v. Allahabad Bank and Others [(1996) 4 SCC 504], it was held:

"17. The above discussion of case-law makes it clear that if the order of compulsory retirement casts a stigma on the government servant in the sense that it contains a statement casting aspersion on his conduct or character, then the court will treat that order as an order of punishment, attracting provisions of Article 311(2) of the

Constitution. The reason is that as a charge or imputation is made the condition for passing the order, the court would infer therefrom that the real intention of the Government was to punish the government servant on the basis of that charge or imputation and not to exercise the power of compulsory retirement. But mere reference to the rule, even if it mentions grounds for compulsory retirement, cannot be regarded as sufficient for treating the order of compulsory retirement as an order of punishment. In such a case, the order can be said to have been passed in terms of the rule and, therefore, a different intention cannot be inferred. So also, if the statement in the order refers only to the assessment of his work and does not at the same time cast an aspersion on the conduct or character of the government servant, then it will not be proper to hold that the order of compulsory retirement is in reality an order of punishment. Whether the statement in the order is stigmatic or not will have to be judged by adopting the test of how a reasonable person would read or understand it."

14. The question came up for consideration before a Division Bench of this Court in State of Gujarat v. Umedbhai M. Patel [(2001) 3 SCC 314] wherein Balakrishnan, J. (as the learned Chief Justice then was), summarized the law, thus:

"11. The law relating to compulsory retirement has now crystallised into definite principles, which could be broadly summarised thus:

(i) Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.

(ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.

(iii) For better administration, it is necessary to chop off dead wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.

(iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

(v) Even uncommunicated entries in the confidential record can also be taken into consideration.

(vi) The order of compulsory retirement shall not be passed as a short cut to avoid departmental enquiry when such course is more desirable.

(vii) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.

(viii) Compulsory retirement shall not be imposed as a punitive measure."

Relying upon the same, he urged before the Court to set aside the order of punishment imposed upon the petitioner as nothing was communicated to him by the respondent Department and the punishment so imposed is too harsh for which the interference of the Court is required.

[09] I have heard both the sides at length and perused the writ petition and the connected documents and also gone through the counter-affidavit and the documents annexed with the counter-affidavit by the respondent-TPSC. It is the admitted position that the respondent authority framed in total five numbers of Article of Charges against the petitioner:

- (i) The first Charge Article-I was regarding his misbehavior with the senior staff, Manika Shil, UDA, TPSC.
- (ii) Article-II was regarding his frequent leaving his office without permission of the Higher Authority.
- (iii) Article-III was defying the order of the Secretary to appear before his chamber on 25.01.2023 at 11 a.m.
- (iv) Article-IV was regarding absent himself from the Office after putting his signature in the attendance register.
- (v) Article-V was regarding refusal to accept the suspension order and also not advanced any communication verbally or orally two messengers reported.

Now for the sake of convenience, I would like to refer herein below Rule 3(i) of the Tripura State Civil Services (Conduct) Rules, 1988 which reads as under :

"3. General

(1) Every Government Employee shall at all times-

- (i) maintain absolute integrity;**
- (ii) maintain devotion to duty; and**
- (iii) do nothing which is unbecoming of a Government employee."**

[10] Admittedly, in this case, there was no allegation of sexual harassment against the petitioner, rather, a committee was constituted on his misconduct and misbehavior with the senior staff of the Department. From the documents annexed with the writ petition and also the counter-affidavit it appears to this Court that the present petitioner as a Group-D employee of the Department inspite of receipt of notice, developed a habit not to give any response and to disregard the official communication, to remain absent in the office after putting signature in the attendant register and to defy the order of his superior appointing authority which prima facie shows the petitioner's misconduct and misbehavior. To substantiate the charge from the side of TPSC, total eight numbers of witnesses were adduced and the petitioner was also examined himself as defence witness but by the style of cross-examination and defence evidence, the present petitioner could not create any doubt to disbelieve the Article of Charges framed against him.

[11] In course of hearing, Learned counsel for the petitioner submitted that the he has been falsely implicated in this case and no opportunity was given to him. But after going through the relevant documents, nowhere I find that the principle of natural justice was violated and the petitioner was not given the scope to defend the charges properly. As already stated, there was not any allegation of sexual harassment by the petitioner, rather, on the recommendation of the inquiry committee one FIR was laid against him and the case also been registered accordingly which is still pending for disposal for alleged threatening of said Manika Shil and other officials of TPSC. Although the same FIR and the report of the Committee constituted for sexual harassment of women was not part of the proceeding.

[12] I have also gone through the citations referred by Learned counsel for the State-respondents and it appears to this Court that the petitioner could not show any materials before the Court for interference of the orders of the disciplinary authority and the appellate authority. The citations as relied upon by the Learned counsel for the respondents-TPSC are very much relevant for decision of this case and accordingly the said principles have been taken care off at the time of delivery of the judgment and it appears to this Court that there is no scope to interfere with the findings of the authority concerned. Now, regarding alternative argument raised by Learned counsel for the petitioner we are to see whether the order of major punishment is disproportionate or not to the Charges levelled against him. It is submitted by Learned counsel for the petitioner that even if the findings of the disciplinary authority and the appellate authority is accepted to be lawful since, the petitioner being a Group-D employee has left a considerable period of his service for his retirement in such a situation, if he is sent to compulsory retirement that his entire family would lead to starvation. So, Learned counsel urged before the Court to give him a scope to amend himself.

[13] On the other hand, in this regard, Learned counsel for the respondent-TPSC counter the submission made by Learned counsel for the petitioner and submitted that due to his constant misbehavior and misconduct the authority was compelled to take the decision and nobody wants that a person who is in regular service be placed under such hardship, so, he urged for upholding the order of the disciplinary authority and the appellate authority.

[14] In this regard, after hearing of both the sides it appears to this Court that the petitioner could not satisfy the Court by showing any materials on record to set aside the findings of the disciplinary authority as well as appellate authority but since the petitioner has left a considerable period of his normal retirement, so, for the sake of justice, this Court believes that an opportunity should be given to rectify/amend himself in the coming days. Accordingly, the matter needs to be remanded back to the disciplinary authority to reconsider the punishment imposed upon the petitioner.

[15] In the result, the writ petition filed stands disposed of on contest. The findings of the disciplinary authority as well as appellate authority stands affirmed as the petitioner failed to satisfy the Court to invoke the jurisdiction under Article 226 of the Constitution of India for interference. But considering the facts and circumstances of the present case and also the fact that the petitioner is aged about 35 years, the matter is remanded back to the disciplinary authority only to the limited extent of reconsideration of the punishment imposed upon the petitioner within a period of 2(two) months from the date of passing of this judgment.

With this observation, the present writ petition stands disposed of.

JUDGE