
(2023) 04 TP CK 0005
In the Tripura High Court
Case No : Writ Appeal No. 92 Of 2021

Uttam Das Baishnab & Ors.

APPELLANT

Vs

State Of Tripura & Others

RESPONDENT

Date of Decision : 05-04-2023

Acts Referred:

Central Civil Services (Classification, Control And Appeal) Rules, 1965 — Rule 10(6)

Citation : (2023) 04 TP CK 0005

Hon'ble Judges : T. Amarnath Goud, J; Arindam Lodh, J

Bench : Division Bench

Advocate : A. Pal, Dipankar Sarma

Final Decision : Allowed

Judgement

1. Heard Mr. A. Pal, learned counsel appearing for the appellant. Also heard Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. This instant writ appeal is directed against the judgment and order dated 29.01.2021 passed by the learned Single Judge in WP(C) No.562 of 2020 whereby the writ petition filed by the petitioner was dismissed.

3. The facts of the case, in brief, are that the petitioner while serving as Deputy Collector & Magistrate, Sabroom in the year 2020 was suspended vide an order of the Government of Tripura dated 14.05.2020 in contemplation of a disciplinary proceeding drawn against him. Since after expiry of 90 days there was no communication by the department of review and extension of suspension order, petitioner submitted a representation on 21.08.2020 for revocation of his suspension. Meanwhile, the department extended the suspension period of the petitioner by 180 days vide order dated 20.08.2020. Assailing the said orders, the petitioner filed a writ petition being WP(C) No.562 of 2020 which was dismissed by the learned Single Judge vide judgment and order dated 29.01.2021. Aggrieved thereby, the petitioner has preferred this writ appeal for

setting aside the judgment and order dated 29.01.2021 passed by the learned Single Judge in WP(C) No.562 of 2020. Hence, this appeal.

4. Appellant has prayed for the following reliefs:

"(i) Admit this appeal;

(ii) Call for the relevant records;

(iii) Issue notice to the respondents;

(iv) After hearing the parties may be pleased to quash/set aside the Judgment and Order dated 29.01.2021 passed in WP(C) No.562 of 2020, and direct the respondents to revoke the orders of suspension/extension of suspension of the humble appellant, in terms of the GROUNDS set forth above, by way of allowing the appeal;

AND

(v) Pass any other order or orders as may be deemed fit and proper, for ends of justice."

5. Mr. A. Pal, learned counsel appearing for the appellant, contends that the order of suspension was passed on 14.05.2020 and the department extended the period of suspension for 180 days vide order dated 20.08.2020 i.e. beyond the expiry of the period of 90 days from the date of suspension which is 11.08.2020. Counsel also contends that in view of Rule 10(6) of the CCS(CCA) Rules, 1965, the suspension order must be deemed to have been lapsed after expiry of 90 days and as such, the suspension order became invalid as it was not reviewed before expiry of 90 days. Counsel further contends that the learned Single Judge without appreciating such aspects of the matter passed the impugned judgment which is illegal and unsustainable in law. Accordingly, he prays for setting aside the judgment and order dated 29.01.2021 passed by the learned Single Judge in WP(C) No.562 of 2020.

On the other hand, Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State, referring to an office memorandum dated 30.03.2020 issued by the Department of Personnel and Training, Government of India, contends that consequent upon the outbreak of COVID-19 followed by Lockdown w.e.f. 24.03.2020 it was decided not to count the period of lockdown for the purposes of adherence to the prescribed timelines and as such, the delay caused in extending the period of suspension order can appropriately be waived. Accordingly, he contends that the learned Single Judge has rightly dismissed the writ petition preferred by the petitioner and prays for dismissal of the present appeal also.

6. In view of submissions of learned counsel for the respective parties, this Court is of the considered view that the memorandum placed by the learned Government counsel cannot have an overriding effect on the statute as it is apparent from the Rule 10(6) of the CCS(CCA) Rules, 1965, that the suspension

order must be reviewed before expiry of 90 days otherwise it must be deemed to have been lapsed after expiry of such period. Moreover, the memorandum which the Government counsel is relying has no bearing on this and the action of the officers taking shelter under the said memorandum is arbitrary.

7. Accordingly, the writ appeal is allowed. The impugned judgment and order dated 29.01.2021 passed by the learned Single Judge in WP(C) No.562 of 2020 is set aside. Consequently, the order of suspension dated 14.05.2020 and the extension order of suspension dated 20.08.2020 are revoked. The appellant-petitioner be reinstated in service forthwith. The respondent-department is at liberty to take any further action in accordance with law.

8. With the above observation and direction, the writ appeal is allowed and disposed of.

Pending application(s), if any, also stands disposed of.