

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.130 of 2025

Sri Sujit Kumar Dey,
S/o: Late Ajit Kumar Deb,
Netaji Pally, Dukli, P.O.: Madhuban,
West Tripura.

.....Petitioner(s)

Versus

1. The State of Tripura, to be represented by the Secretary, Home Affairs, Government of Tripura, Secretariat, New Capital Complex, Kunjaban, Agartala, PIN: 799010.

2. The District General of Police, Government of Tripura, Police Head Quarter, Agartala, PIN: 799001.

3. The Dy. Director General of Police, AP (OPS-1) Government of Tripura, A.D. Nagar, Agartala, PIN: 799003.

4. The Commandant, 1st Bn Tripura State Rifles, V.B. Gram, Gokulnagar, Sepahijal Tripura, PIN: 799102.

----Respondent(s)

For Petitioner(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv. Dr. Mihirlal Roy, Adv.
For Respondent(s)	:	Mr. Karnajit De, Addl. GA
Date of hearing	:	25.02.2026
Date of delivery of Judgment & Order	:	05.03.2026
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

The petitioner has filed this writ petition seeking the following reliefs:

“(i) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other Direction or Directions and/or Order or Orders of like nature shall not be issued for setting aside the impunged Order, dated 18-10-2024 of the Disciplinary Authority of ‘Compulsory Retirement’ of the Petitioner.

(ii) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other Direction or Directions and/or Order or Orders of like nature shall not be issued for consequential relief of the Petitioner on setting aside the impunged Order, dated 18-10-2024 of the Disciplinary Authority of ‘Compulsory Retirement’ of the Petitioner.

(iii) Call for records.

(iv) Pass any further order/orders as this Hon'ble High Court consider fit and proper."

2. Heard Learned Senior Counsel, Mr. Purusuttam Roy Barman assisted by Learned Counsel, Dr. Mihirlal Roy appearing on behalf of the petitioner. Also heard Learned Addl. GA, Mr. Karnajit De appearing on behalf of the respondents-State.

3. Taking part in the hearing, Learned Senior Counsel for the petitioner drawn the attention of this Court to the fact that the petitioner entered into service on 03.04.2000 as a Rifleman under Tripura State Rifles, Government of Tripura (for short, TSR). In course of his employment, while serving as Rfn (Driver) No.00010531, a departmental proceeding was initiated against him under Rule 14 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 (for short, CCS(CC&A) Rules) read with Rule 40, vide Memorandum dated 20.05.2023 with the following articles of charge:

"ARTICLE-I

That, No. 00010531 Rfn (Driver) Sujit Kumar Dey of Adm-Coy, 12th Bn TSR(IR-VIII), while on leave he had fraudulently and dishonestly submitted forged guarantor form vide dispatch No. 2385 dated 07.12.2022 by affixing forged seal of the DDO, 12th Bn TSR (IR-VIII) and forging the signature of DDO, 12th Bn TSR (IR-VIII). He put forged signature of DDO, 12th Bn TSR (IR-VIII) on the prescribed guarantor form as a guarantor in favour of the beneficiary namely Shri Dipak Banik S/o Shri Girendra Chandra Banik of East Badharghat, Madhuban, Amtali, West Tripura before the Tripura Scheduled Castes Co-operative Development Corporation Limited, Agartala towards sanction of Rs. 5,00,000/- under the small Business Scheme which amounts to gross misconduct and thereby punishable under section 12(1) of TSR Act, 1983."

Along with the articles of charge, statement of imputation of misconduct, misbehaviour was framed, together with a list of documents and a list of witnesses, which were duly supplied to the present petitioner. An Inquiring Authority was appointed by the Disciplinary Authority in exercise of the power conferred under Sub-

rule (2) read with Sub-rule (22) of the Rule 14 of the CCS(CC&A) Rules, 1965 to inquire into the charges framed. The Inquiring Authority conducted the enquiry upon the charges framed and on completion of the enquiry, submitted its findings. On the basis of the findings of the Inquiring Authority, the Commandant, 1st Bn, TSR, acting as the Disciplinary Authority passed a Provisional Punishment Order on 23.09.2024 imposing a major punishment of "Removal from service which shall not be a disqualification for future employment under the Government" (*Annexure-1* to the writ petition).

4. Thereafter, being aggrieved, the petitioner submitted a representation to the Commandant, 1st Bn, TSR for reconsideration and to exonerate him from the charge (*Annexure-2* to the writ petition). Subsequently, the Disciplinary Authority, in exercise of the powers conferred under Section 12(1)(h) of the Tripura State Rifles Act, 1983, (for short, TSR Act) passed the final order dated 18.10.2024 imposing punishment of 'Compulsory Retirement' (*Annexure-3* to the writ petition). Accordingly, the name of the petitioner was struck off from the strength of Tripura State Rifles w.e.f. 18.10.2024.

5. Challenging the impugned final order dated 18.10.2024, the petitioner preferred an appeal on 07.11.2024 before the Appellate Authority, i.e. the Dy. Inspector General of Police, AP(OPS-1), Government of Tripura under Rule 46 of the Tripura State Rifles (Discipline, Control, Service Conditions etc) Rules, 1986 (*Annexure-4* to the writ petition). However, the Appellate Authority did not consider the appeal and by order dated 18.02.2025 affirmed the order of the Disciplinary Authority (*Annexure-5* to the writ petition).

Challenging the aforesaid order dated 18.10.2024, the petitioner has filed this writ petition seeking the reliefs as stated above.

6. At the time of hearing, Learned Senior Counsel for the petitioner drawn the attention of this Court referring the report of the Inquiring Authority and submitted that the enquiry report was not supplied to the petitioner before the imposition of punishment, thereby depriving him of the opportunity to submit his representation. As such, there was total violation of the principles of natural justice.

In this regard, reliance was placed upon the judgment of Hon'ble Supreme Court of India in **Managing Director, Ecil, Hyderabad & Ors. vs. B. Karunakar & Ors.**, reported in **(1993) 4 SCC 727** wherein in para Nos.29 and 30, Hon'ble the Apex Court observed as under:

"29. Hence it has to be held that when the enquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the enquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the enquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

30. Hence the incidental questions raised above may be answered as follows:

[i] Since the denial of the report of the enquiry officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject.

[ii] The relevant portion of Article 311(2) of the Constitution is as follows:

“(2) No such person as aforesaid shall be dismissed or removed or reduced in rank 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.”

Thus the article makes it obligatory to hold an inquiry before the employee is dismissed or removed or reduced in rank. The article, however, cannot be construed to mean that it prevents or prohibits the inquiry when punishment other than that of dismissal, removal or reduction in rank is awarded. The procedure to be followed in awarding other punishments is laid down in the service rules governing the employee. What is further, Article 311(2) applies only to members of the civil services of the Union or an all-India service or a civil service of a State or to the holders of the civil posts under the Union or a State. In the matter of all punishments both Government servants and others are governed by their service rules. Whenever, therefore, the service rules contemplate an inquiry before a punishment is awarded and when the enquiry officer is not the disciplinary authority the delinquent employee will have the right to receive the enquiry officer's report notwithstanding the nature of the punishment.

[iii] Since it is the right of the employee to have the report to defend himself effectively and he would not know in advance whether the report is in his favour or against him, it will not be proper to construe his failure to ask for the report, as the waiver of his right. Whether, therefore, the employee asks for the report or not, the report has to be furnished to him.

[iv] In the view that we have taken, viz., that the right to make representation to the disciplinary authority against the findings recorded in the enquiry report is an integral part of the opportunity of defence against the charges and is a breach of principles of natural justice to deny the said right, it is only appropriate that the law laid down in Mohd. Ramzan case should apply to employees in all establishments whether Government or non-Government, public or private. This will be the case whether there are rules governing the disciplinary proceeding or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject. Whatever the nature of punishment, further, whenever the rules require an inquiry to be held, for inflicting the punishment in question, the delinquent employee should have the benefit of the report of the enquiry officer before the disciplinary authority records its findings on the charges levelled against him. Hence question (iv) is answered accordingly.

[v] The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment

awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in itself is antithetical to justice."

Referring the same, Learned Senior Counsel further submitted that since the respondent authority has failed to comply with the mandatory requirement of law, so, the punishment imposed upon the petitioner by the Disciplinary Authority as well as the Appellate Authority suffers from infirmity and as such, the same needs to be interfered with and set aside. It was further submitted by Learned Senior Counsel for the petitioner that in this case, the Inquiring Authority submitted its findings based upon the report of SFSL but unfortunately, the Scientific Officer-cum-Assistant Chemical Examiner, who conducted the examination and submitted report was not called for examination by the Authority. Even the petitioner was not given the opportunity to cross-examine the said witness. As a result, the petitioner was deprived of exercising his valuable rights. Thus, the entire proceedings suffers from serious irregularities.

Finally, Learned Senior Counsel for the petitioner urged before this Court to interfere with the findings of the Disciplinary

Authority as well as the Appellate Authority and to remand back the matter to the respondent authority with a direction to furnish the report of the Inquiring Authority to the petitioner to enable him to make his proper defence before the Disciplinary Authority before imposition of punishment.

7. The State-respondents have contested the case by filing counter affidavit. In para Nos.6 to 11 of the counter affidavit, the State-respondents have submitted as under:

"6. That, with regard to para 6 of the Writ Petition, I say that, it is fact that a Departmental Proceeding was drawn-up against the Petitioner when he was posted at 12th Bn TSR. As per record, Shri Prabha Ranjan Debbarma, Asstt. Commandant, 12th Bn TSR was engaged as Inquiring Authority. Thereafter Shri Binoy Kumar Gour, Asstt. Commandant, 1st Bn TSR was engaged as Inquiring Authority and Subedar (Medical) Pankaj Majumder was engaged as Presenting Officer. Subsequently, Shri Nila Kumar Jamatia, Dy. Commandant, 1st Bn TSR was engaged as Inquiring Authority due to posting out of Shri Binoy Kumar Gour, Asstt. Commandant, 1st Bn TSR. Thereafter, Shri Kanulal Das, Asstt. Commandant, 1st Bn TSR was engaged as Inquiring Authority during the month of March, 2024 due to deployment of Shri Nila Kumar Jamatia, Dy. Commandant at Chhattisgarh. Shri Kanulal Das, AC, 1st Bn TSR submitted findings of the DP after completion of Enquiry.

7. That with regard to para 7, I say that, it is fact that, the Article of Charges framed against the Petitioner was "proved beyond doubt" as per findings of the Inquiring Authority submitted on 17.09.2024. On perusal of the findings, statement of prosecution witnesses, statement of Presenting Officer, opinion of the State FSL, Tripura and the final defense statement of charged official a Provisional Punishment order "REMOVAL FROM SERVICE WHICH SHALL NOT BE A DISQUALIFICATION FROM FURTHER EMPLOYMENT UNDER THE GOVERNMENT" in c/w 12th Bn TSR DP No-03/2023 dated 10.06.2023 was issued to him vide No. F.Pers/TSR-I/Estt/SKD/2K/7456 dated 23.09.2024 which was acknowledged by him on the same day.

8. That, with regard to para 8, I say that, provisional order issued after careful consideration of findings as submitted by Inquiring Authority after conducting day to day proceeding of Enquiry.

9. That, with regard to para 9, I say that, the petitioner was given sufficient scope and he was also provided with all relevant documents to defend his case.

It is pertinent to mention here that, the Inquiring Authority by a letter vide No. 1390/F/DP No-03/2023/TSR-XII/SKD/2023 dated 12.06.2023 was given the scope to inspect the documents by which the article of Charges were proposed in the chamber of Inquiring Authority on 19/06/2023 at 1030 hours and was also given liberty to the petitioner that he can take extracts of relevant portions there from, if necessary. It was also mentioned under above letter that the Petitioner may intimate the name and particulars of the defence assistant to the E.O.

Copies of the documents provided to him are enclosed hereto and marked as Annexure R/1.

Copy of the letter No. 1390/F/DP No-03/2023/TSR-XII/SKD/2023 dated 12.06.2023 is annexed hereto and marked as Annexure R/2.

10. That, with regard to para 10 and 17, I say that, the contentions raised in this paragraph is not factually correct. The representation was received on 10.10.2024 not on 19.10.2024. The representation of charged official/petitioner was considered on the basis of the economic condition of the family of charged official for carrying out study of his son and livelihood, as the delinquent official is the only earning member of his family. Thereafter, finally he was awarded major penalty of "Compulsory retirement" from Government service in place of "removal from service which shall not be a disqualification for future employment under the Government".

11. That, with regard to para 11, I say that, the representation was received on 10.10.2024 not on 19.10.2024. The representation of charged official was considered on the basis of the economic condition of his family in carrying out the study of his son and their livelihood, as the delinquent official is the only earning member of his family. Thereafter, finally he was awarded major penalty of "Compulsory retirement" from Govt service in place of "removal from service which shall not be a disqualification for future employment under the Government". It is not correct that pension benefits under Compulsory retirement scheme will forfeiture his retirement benefit."

8. However, at the time of hearing, Learned Addl. GA, Mr. De appearing on behalf of the State-respondents submitted that in this case all opportunities were given to the petitioner to conduct his defence properly and the charges were duly proved against him. As such, there was no scope for causing prejudice to the petitioner.

Furthermore, referring para No.2(IV) of the order dated 18.02.2025 (*Annexure-5* to the writ petition), Learned Addl. GA drawn the attention of this Court that in the said order it was specifically mentioned that in course of the enquiry, ample opportunities was given to the petitioner at every stage to defend himself but inspite of the opportunities, the petitioner failed to produce any witness or documentary evidence in support of his defence. Learned Addl. GA further submitted that the charges were framed as per the TSR Act, 1983 based upon the documentary evidence on record and the departmental proceeding was drawn up accordingly. So, no prejudice was caused to the petitioner and as such, Learned Addl. GA in conclusion of his argument urged for dismissal of this writ petition.

9. Further, at the time of hearing, being asked by this Court, Learned Addl. GA fairly submitted that the enquiry report was not furnished to the petitioner before imposition of punishment enabling him to submit his representation to the Disciplinary Authority as observed by the Hon'ble Supreme Court in the aforementioned case.

In this regard, Hon'ble the Supreme Court in **State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow vs. Ram Prakash Singh**, reported in **2025 SCC OnLine SC 891**, in para Nos.33, 38, 39, 52, 55 observed as under:

33. Resting on the aforesaid reasoning, the answer to the basic question (majority view) in B. Karunakar (supra) is found in paragraph 29 reading as follows:

"29. Hence it has to be held that when the enquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the enquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges

levelled against him. A denial of the enquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice."

(emphasis ours)

38. Thus, the right to receive the enquiry report as a fundamental safeguard in disciplinary proceedings, where such report holds the charges against the delinquent employee to be established, was firmly entrenched by the Constitution Bench in the jurisprudence relating to proceedings initiated for disciplinary action for misconduct. This valuable right applies uniformly, regardless of who the employer is (Government, public or private) and regardless of what the rules governing the service ordain. Even if the rules are silent or do not require furnishing of the enquiry report, the same has to be furnished. Additionally, the report must be furnished to the employee even without a request, as it forms an integral part of ensuring a fair and reasonable opportunity to defend against the charges. By not furnishing the report, an employer cannot scuttle the rights of the delinquent employee.

39. Reading the passage from S.K. Sharma (supra) highlighted above bearing in mind the guidance received from the dicta in B. Karunakar (supra), one can safely conclude that furnishing of a report of enquiry though is a procedural step, it is of a mandatory character. However, such a requirement can be waived by the delinquent employee, expressly or by conduct, but if on facts he is found not to have waived his right to receive the report, the theory of substantial compliance or the test of 'prejudice' would not be applicable.

52. We now sum up our understanding of the law declared in B. Karunakar (supra) and answer the four questions delineated in paragraph 26 (supra) compositely. Reading the declaration of law by the Constitution Bench regarding the imperative need to furnish the report of enquiry to the delinquent employee even when : (i) the relevant statutory rules are silent or against it, (ii) the punishment to be imposed is other than the punishment referred to in clause (2) of Article 311 of the Constitution, (iii) the employee does not ask for it, and (iv) the burden is cast on a private employer too, and the law requiring furnishing of the report being made to operate prospectively from the date the decision in Mohd. Ramzan Khan (supra) was rendered, thereby reinforcing the legal position that prevailed after the GoI Act was enacted but became unsettled later, there can be no two opinions that on and from 20th November, 1990 [i.e., when Mohd. Ramzan Khan (supra) was decided] it is the mandatory requirement of law that the report of enquiry has to be furnished to the delinquent employee. Taking a cue from S.K. Sharma (supra), we are inclined to the view that the requirement of furnishing the report of enquiry, though procedural, is of a mandatory

character and the bogey argument of the employer to apply the test of 'prejudice' when the report of enquiry is not furnished cannot be of any avail to thwart the challenge of the delinquent employee. Such test could call for application, if from the facts and circumstances, it can be established that the delinquent employee waived his right to have the report furnished. Should satisfactory explanation be not proffered by the employer for its failure/omission/neglect to furnish the enquiry report, that ought to be sufficient for invalidating the proceedings and directing resumption from the stage of furnishing the report. No proof of prejudice for breach of a statutory rule or the principles of natural justice and fair play need be proved, unless there is a waiver, either express or by conduct, to of the right to receive the report. And, it is only in specific and not in all circumstances that proof of 'prejudice' ought to be insisted upon.

55. Relying on the law declared in S.K. Sharma (supra) which, in turn, relied on B. Karunakar (supra), we hold that prejudice is self-evident and no proof of prejudice as such is called for in this case."

From the aforesaid observation of the Hon'ble Supreme Court of India, it appears that Hon'ble the Supreme Court also came to the observation that even if the rules are silent or do not require furnishing of the enquiry report, the same has to be furnished. The report must be furnished to the employee even without a request, as it forms an integral part of ensuring a fair and reasonable opportunity to defend against the charges and by not furnishing the report, an employer cannot scuttle the rights of the delinquent employee.

10. Here, in the case at hand, after hearing both the sides and after going through the records, it appears that the respondent authority has failed to discharge that burden, which was legally casted upon them. As such, in the considered opinion of this Court, there has been a violation of the principles of natural justice before imposition of punishment.

In the result, the writ petition filed by the petitioner stands allowed. The orders of the Appellate Authority as well as the Disciplinary Authority passed against the petitioner stands quashed

and set aside. The matter is remanded back to the respondent authority with a direction to supply a copy of the enquiry report to the petitioner so as to enable him to submit his defence before imposition of punishment by the Disciplinary Authority.

The Disciplinary Authority, accordingly, may ensure supply copy of the enquiry report to the petitioner and ask him to submit his defence against the report for further proceeding and thereafter, after considering the representation of the petitioner, the Disciplinary Authority shall pass appropriate order in accordance with law within a period of 3(three) months from the date of passing of this judgment and order.

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

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

JUDGE

सत्यमेव जयते