

TRIPURA HUMAN RIGHTS COMMISSION
KUNJABAN, AGARTALA
PIN-799006

Complaint No. 88 of 2023

FINAL ORDER DATE 23.08.2024

Complainant Sri Swapan Bhowmik, S/O Lt. Ananda Chandra Bhowmik of Hrishyamukh, PS Belonia, South Tripura, Pin-799156 having Mobile No. 9366245932, set the law in motion, by making a complaint before this Commission on 29.11.2023 against the General Manager (Personnel), Tripura Gramin Bank, Head Office, Agartala, West Tripura and the Branch Manager, Tripura Gramin Bank, Hrishyamukh Branch, Belonia, South Tripura alleging inter alia that he had been working as Sanitization worker in the Branch Office of Tripura Gramin Bank at Hrishyamukh from the very inception that is since 2009. Subsequently, he was engaged as DRW w.e.f 24.12.2012 instead of Sanitation worker and he was also performing his duties since that date. His biodata was sent to the General Manager (Personnel), Tripura Gramin Bank, Head Office, Abhoynagar, Agartala. After he was engaged as DRW, the bank also engaged another sanitation worker in the Branch. He had sufficient qualification to be regularized against created post. In spite of his sincere work for long period, bank authority created a situation that he should leave the work. He applied to the Branch Manager, Tripura Gramin Bank, Hrishyamukh not to take any step to discharge him from service. Even necessary information had also been given to the General Manager (Personnel), Tripura Gramin Bank but no attention


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was given to his prayer. Finding no other alternative he lodged the complaint against the bank seeking justice, as he was prohibited to work in the Tripura Gramin Bank, Hrishyamukh Branch. He enclosed some papers in support of his contention which includes one Advocate notice and few copies of representation.

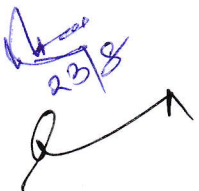
The following documents also submitted by him

- i. Proforma of biodata of sanitation worker dated 03.06.2009, bearing No.TGB/P&A/HRD/2(I)/CIR-241/18091/2009 issued by Chairman, H.O. Tripura Gramin Bank, Abhoynagar, Agartala.
- ii. Copy of one letter dated 11.06.2009 issued by Branch Manager, TGB, Hrishyamukh Branch by which Branch Manager admitted that the complainant Sri Swapan Kumar Bhowmik was engaged to that bank to work since 1993 mentioning that sanitation worker and sweeper are same person of that branch.
- iii. Copy of his Citizenship Certificate issued by SDM, Belonia on 17.10.1989 bearing No. 4178/SDO/BLN/CTZN/89.
- iv. A PRTC of the complainant dated 20.12.2006 issued by SDM, Belonia showing that complainant is a resident of Hrishyamukh, Post Office Hrishyamukh, Belonia and his date of birth is 15.01.1973.
- v. Copy of his Admit Card, Tripura Board of Secondary Education, Registration No. 64111 for the year 1989-90, Role South Cont. No. 67354.





- vi. Copy of his Employment Exchange Card having registration No.SB/780/96.
- vii. Copy of one letter dt.05.05.2009 issued by Chairman, Tripura Gramin Bank addressed to all Branches by which Temporary Advances are allowed in the event of Hospitalization for themselves and/or their dependent family members for treatment of various diseases such as Cardiac including By-pass Surgery, Cerebral Thrombosis, brain, Lung and Cancer Operation, Acute Cardiac Respiratory problems, Retinal detachment & Cornea Grafting, Fractures, Amputation, and others diseases where treatment involved expenditure exceeding Rs.15,000.00/-.
- viii. Another letter dated 28.11.2011 issued by Chairman addressed to all Branches / Mobile Branches and Regional Offices of T.G.B and all departments of Head Office by which it was informed that Board of Directors of that Bank in its 194th meeting held on 31.10.2011, after due consideration was pleased to enhanced the wages of Sanitation/Sweeping workers at the some rates with effect from 01.11.2011 considering the hike of essential commodities of livelihood.
- ix. Another letter dated 07.02.2013 issued by Branch Manager, Hrishyamukh Branch, Tripura Gramin Bank addressed to the HOD (P&A) T.G.B, Head Office, Abhoynagar, Agartala where in Branch Manager, T.G.B, Hrishyamukh Branch admitted that they had engaged the complainant from January


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2013 as DRW and that the complainant was previously worked as Sanitation worker in the said Bank from inception. It also shows that the complainant was engaged as DRW in place of one MCP who was promoted to the post Office Assistant and it also gave information to HOD (P&A) regarding engagement of one Sanitation worker in place of O.P Swapan Bhowmik.

2. Accordingly, the notice was given to the General Manager, Tripura Gramin Bank, Agartala to submit a report on the complaint of the complainant. On 27.12.2023 General Manager, Tripura Gramin Bank submitted a letter stated that they did not receive 130 No's of documents which were submitted by the complainant before the Commission, with a prayer to direct the complainant to submit those documents to General Manager, Tripura Gramin Bank and that was allowed.

3. On 08.04.2024 Tripura Gramin Bank submitted a written response mentioning about a Writ Petition bearing No. WP(C) No.321/2020, a Writ Appeal No. WA/156/2023 and also Contempt Case bearing No. CONT.CAS(C) 143/2023 which were filed before the High Court of Tripura at different point of time but that time the Respondent, Tripura Gramin Bank did not clearly state whether the petitioner, complainant Sri Swapan Bhowmik was a party or not to those Writ Petition, Writ Appeal or Contempt Case. The General Manager, T.G.B, the Respondent, was asked to submit copy of a Writ Petition, Writ Appeal, copies of Contempt Petition and counter there to with a specific

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written response as to whether the petitioner was a party to those cases or not. On 22.04.2024, Chief Manager, Tripura Gramin Bank, by filing a petition informed that the complainant was not a party to that Writ Petition, Writ Appeal and Contempt Petition which were referred in their counter statement and bank also submitted the copies of the Writ Petition, Writ Appeal and Contempt Petition etc. and on that date Chief Manager, Tripura Gramin Bank stated that the bank did not receive the copy of response submitted by the complainant in response to the reply given by the General Manager, Tripura Gramin Bank. The response was submitted by the complainant before this Commission. So, the Respondent was asked to collect a copy of the same from the office of this Commission at their own cost.

4. On 22.05.2024, Chief Manager, Tripura Gramin Bank submitted a petition supported by an affidavit and prayed for dismissal of the complaint of the petitioner. On that date, complainant appeared before the Commission and submitted a statement by affidavit along with photocopies of a bunch of documents.

5. On 26.06.2024, respondents by filing a petition again prayed for supplying them a copy of the statements along with copies of the documents filed by the complainant on 22.05.2024 and accordingly office of this Commission was asked to supply the copies of said statement and documents to the respondent to facilitate them in submitting their response before the next date positively fixing the next date on 23.07.2024.

On 23.07.2024, respondent did not take any step accordingly the Commission, heard the complainant and his engaged LD. Counsel Mr. Sen.

6. The Gist story of Tripura Gramin Bank as it appears from their petition is that the Tripura Gramin Bank is constituted under the provision of Regional Rural Banks Act. 1976. Recruitment and promotion in the Bank is followed as per the provisions laid down in the Regional Rural Bank (Appointments and promotion of Officers and Employees) Rules 2017.

The Provision of Serial No. 07 of the first schedule of the Regional Rural Banks Rules 2017 clearly stated about the procedure in respect of appointment of Office Attendant (Multipurpose) under classification of "Group-C". In that rule no provision is inserted in respect of appointment of any Sanitation/DRW in the Respondent Bank. Provision of Serial No. 07 as laid down in the Regional Rural Bank Rules 2017 stated that the Regional Rural Bank shall, in making recruitment to "Group-C" post, make a reference to the employment exchange office, the Sainik Board or such other agencies catering to the welfare of the schedule castes, schedule tribes, physically challenged persons or others special categories of persons as are recognized by Central Government or the State Government having jurisdiction over the Regional Rural Bank. Preference shall be given to candidate belonging to SC, ST or any other special categories of persons, in accordance with instructions or guidelines issued by the Central Government in that regard from time to time. Tripura Gramin Bank used to engage person on daily


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basis as and when required for a particular work and on completion of the same the Respondent Bank used to pay them the wages against such work.

One Writ Petition vide No.WP(C) No.321/2020 was filed before the Hon'ble High Court of Tripura against Tripura Gramin Bank and 7 others with a claim that the petitioners of that case had been working as DRW in the Bank (T.G.B) since long and as such they prayed before the Hon'ble High Court to regularize their service as Office Attendant (Multipurpose) in the Bank. The Hon'ble High Court vide letter dt. 22.08.2022 disposed the case observing the following:

"It is settled principle that Court cannot direct an organization to regularize the service of its employees who are engaged contrary to prevalent recruitment rule or without following the normal rule of public employment. However, considering the fact that the petitioners have been serving under the respondent-Bank for the last several years, I direct the respondents including the respondent-Bank to consider for formulation of a scheme keeping in mind the existing Service Rule as applicable to its employees so that the services of the petitioners can be considered for regularization within a reasonable period. It is further directed to consider the prayer of the petitioners for providing pay scale at the lowest stage of the scale prescribed for Group-D employees of the Bank".

Being dissatisfied with the judgement vide dated 22.08.2022, the Tripura Gramin Bank had preferred an appeal No.WA/156/2022 before the Division Bench and the

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Hon'ble Division Bench disposed off the appeal by observing the following:

“After hearing the parties this court is of the opinion that the appellant bank shall consider the case of the respondents for complying the orders passed by the learned Single Judge. However, we make it clear that the orders are not compulsory in nature but the appellant bank shall take pragmatic approach for the purpose of considering the case of the private respondents as per their procedure.”

It is also mentioned by the Bank that the writ petitioners subsequently filed a Contempt Case bearing No.CONT.CAS(C) 143/2023 against the respective Officials of the Bank in connection with the Judgment dt.22.08.2022 in WP(C)/321/2020. On hearing of the parties, the Hon'ble High Court was pleased to dispose of the contempt case given the following observation:

“In view of this, I do not find any cogent grounds to initiate contempt of Courts proceeding against the respondent-contemnors. Accordingly, the contempt application stands dismissed.”

7. Giving reference to those cases the respondent-bank said that the petitioner was not working permanently in the Bank. The petitioner was not appointed in Tripura Gramin Bank. No appointment letter was issued in his favour. The nature of work of the petitioner was not regular. The petitioner used to work on need basis of the Branch and after completion of the particular work he used to be discharged and engaged again on daily basis, if required. The petitioner

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was not rendering service as regular employee in the Bank and he used to receive minimum wages on daily basis. The petitioner was not given any appointment letter against his work. The bank also took the plea that due to temporary work of the complainant he was found incompetent and he worked in unskilled manner and lot of complaints were lodged against the complainant petitioner. As a result, the image of the Bank was tarnished in the mind of public. It is also alleged that one Sanjit Baidya, a customer of the bank issued one demand notice on 17.10.2023 with a copy to the Bank which shows that the Swapan Bhowmik (complainant) had borrowed a loan amounting to Rs. 1,50,000/- from said Sri Sanjit Baidya by issuing two cheque bearing No.322657 dt. 28.09.2018 amounting to Rs.1,00,000/- and cheque No.322658 dt.10.10.2018 amounting to Rs. 50,000/- and in spite of repeated request by said Swapan Bhowmik (complainant) did not repay the loan. Sri Bhowmik was instructed to pay the said borrowed money along with up to date interest thereon, otherwise legal proceeding would be initiated against Sri Bhowmik. Said Sanjit Baidya, being a customer of the Bank has lodged complaint against the complainant by alleging inter alia that on 24.01.2023, the complainant misbehaved with him and even threatened him by using slang languages.

8. It is also alleged by the Tripura Gramin Bank that Hrishyamukh Branch has received a letter dt.10.03.2021 from the Branch Manager, Tripura State Co-operative Bank Ltd. (TSCB), Hrishyamukh Branch by which intimation was given to the Bank that the petitioner availed KCC loan from

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the TSCB, Hrishyamukh Branch and failed to repay the loan as such the petitioner was declared as defaulter. Tripura Gramin Bank also received series of communication from the Tripura State Cooperative Bank Ltd. with a request for cooperation in realizing the collection of the defaulted amount from the petitioner Sri Swapan Bhowmik. The matter was informed to the complainant petitioner time to time that the aforesaid acts are attracted in tarnishing the image of the bank in the mind of public and simultaneously directed the petitioner complainant to rectify himself and to restrain from doing such type of activities, otherwise, the bank would take necessary steps against him. But, in spite of several cautions given verbally by T.G.B-Hrishyamukh Branch, the petitioner complainant did not pay any heed to that, rather, his attitude has been gradually becoming unfriendly being defaulter. Such type of casual worker like Sri Swapan Bhowmik, the complainant is not entitled to get any opportunity further to work in the Bank. The irregular/unfriendly work of the complainant compelled the Bank to discontinue his temporary work. Presently no casual worker is required for the Bank and in the premises stated above the Tripura Gramin Bank prays to accept the comments of the Bank and to dismiss the complaint of the petitioner.

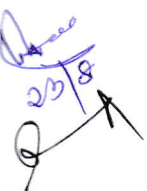
9. On 23.07.2024 complainant petitioner remained present alongwith his counsel Mr. Sankar Ch. Sen. From the Bank side i.e from the respondent side, no representation was made on the date fixed for hearing. Accordingly this Commission heard the complainant and his counsel. The

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Bank did not dispute the documents as submitted by the complainant including the letter dated 07.02.2013 issued by Branch Manager, Hrishyamukh Branch addressed to the HOD, P&A, Tripura Gramin Bank. That documents shows that the Branch Manager informed the HOD, P&A, T.G.B that the complainant Sri Swapan Bhowmik had been working as sanitation worker of the said branch since inception and from January 2013 he was engaged as DRW after promotion of one MCP, who was promoted to the post of Office Assistant. It is also clear that the Bank engaged another sanitation worker in place of complainant Sri Swapan Bhowmik. Tripura Gramin Bank also took the plea that the petitioner used to work on need basis of the Branch and after completion of the particular work he used to be discharged time to time and again engaged on daily basis, if required. But in support of that contention no documents is proved by the bank. The plea of the bank that the complainant petitioner was not rendering service as regular employee in the bank and he used to receive minimum wages on daily basis cannot be accepted. He was not a contingent staff. Rather bank admitted that the bank engaged him as DRW since January 2013. The Tripura Gramin Bank also took the plea that complainant was found incompetent and unskilled and lot of complaint was lodged against the petitioner. But except one wild allegation of one Sanjit Baidya no other documents are furnished.

10. The Complainant being DRW was serving in the Bank from 2013. It is the only source of his livelihood. He continuously worked for ten years and solely depends on that


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income for his livelihood. The plea of the Bank that time to time he was discharged and again engaged on daily basis is not proved by any cogent documents. Bank did not take any initiative to substantiate that plea. If a person worked for a long period like ten years and if the employer Bank wants to discontinue his engagement, bank should issue notice to him showing that he was found incompetent and that he was found served in an unskilled manner. The Bank failed to submit any document that any notice was issued at any time to the complainant. Thus those pleas appear to be pleas taken only for the purpose of these proceedings. Bank, however, produced one complaint letter written by one Sanjit Baidya against the petitioner complainant showing that he behaved unmannerly with that person and also abused him in filthy languages and threatened him with dare consequences. Bank failed to show that the Branch Manager, Hrishyamukh Branch had taken cognizance of that complaint and Bank issued notice to the petitioner or sought for his comments on those allegations made by that person. Even that petition does not bear any receipt of the Bank. If any complaint is lodged against any employee or worker of the Bank, the natural justice demands that notice should be issued to the employee or worker of the Bank to show cause or to give his comments, if the Bank wants to take action against the misdeed of the employee or worker basing on that complaint. Natural justice says that no man shall be condemned unheard. It is the principal of natural justice that everybody has a right to be heard. If the Bank authority wants to take any action against him on the basis of some accusation, Bank should issue due notice to him. Thus plea


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of the Respondent appears to be unjustified and found to have been taken only for the purpose of this proceeding.

Bank has given reference of some Writ Petition bearing No.WP(C) No.321/2020 Writ Appeal No.WA/156/2022 giving a reference of provision No.7 of Regional Rural Bank (Appointment / promotion of officers and other employees) (Rules 2017) and Bank claimed that as per that rules Regional Rural Bank shall in making recruitment to Group-C post make a reference to the employment exchange, the Sainik Board or other agencies catering to the Well fare of the Schedule Caste and Schedule Tribe, physically challenged person or other special categories of person as are recognized by the Central Government or the State Government having jurisdictions over the Regional Rural Bank. That rule came into force only in 1977. But the petitioner was admittedly engaged in that Bank as sanitation worker right from the inception of T.G.B, Hrishyamukh Branch and he had been serving in the said Branch as a DRW from January 2013 much prior to that rule. The said rule has some relevancy only, if Bank wants to regularize the service of the DRW by absorbing him as a Group-C employee of the Bank. That rule has got no connection in respect of the petitioner complainant who was discharging his services as DRW in the Tripura Gramin Bank, Hrishyamukh Branch since January 2013. The petitioner was not a party to those writ petitions, so those writ petitions cannot operate any binding force in respect of the petitioner. Rather on perusal of the order dated 22.08.2022 the Commission finds that the Ld. Single Bench of the High Court directed respondent Bank to consider for formulation of a scheme keeping in mind the existing service

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rules as applicable to his employees, so that the service of the petitioners of that Writ Petition can be considered for regularization within a reasonable period. The order of the Writ Appeal dated 08.12.2022 shows that the Ld. Division Bench opined that appellant Bank should consider for formulation of a scheme keeping in mind the existing service Rule as applicable to its employees, so that the services of the petitioners of that Writ Petition can be considered for regularization within a reasonable period. However, the Ld. Division Court made it clear that the orders are not compulsory in nature but the appellant Bank should take pragmatic approach for the purpose of considering the case of the private respondents as per their procedure. Those judgements show that the Hon'ble High Court also expressed sympathetic consideration of the bank for those respondents. When the Bank did not consider the matter, a Contempt Case was filed bearing No.CONT.CAS(C) 143/2023 against the officials of the Bank. But that Contempt Case failed because findings of the Division Bench did not have any binding force upon the Bank. The Writ Petition and Writ Appeal are related to the claim of those respondents to regularize their service. But in the instant case the claim of the petitioner is that his human rights was violated as this right to life is curtailed by denying him to work as DRW without giving him any notice. He was prevented from serving in the Bank as DRW. Even no written order of discontinuation of his engagement was issued.

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11. The Bank also took the plea that the complainant took a loan from Tripura State Co-operative Bank Ltd.,

Hrishyamukh Branch and failed to pay the loan and as such he was made defaulter. It may be true that Tripura Gramin Bank received series of communication from T.S.C.B. Ltd. with a request to co-operate in realising the collection of dues from the complainant and that letter does not justify discharge of the complainant petitioner. He could not make repayment of a loan as his basic right to live by earning money is curtailed by disallowing him to the work as DRW. From the written statement of the Bank, it also appears that complainant also took loan from one Sanjit Baidya to the extent of Rs.1,50,000.00/- by giving two cheques.

It may be that the complainant also failed to make the payment of loan amount of Sri Sanjit Baidya. Having failed to collect the loan amount, Sri Baidya might have lodged some false allegation to the Bank alleging that Sri Bhowmik abused Sri Sanjit Baidya in filthy languages and also threatened him to kill. Since Bank did not issue any notice to the complainant on receipt of alleged allegation of Sri Sanjit Baidya, this Commission cannot take any cognizance on that alleged complaint, since Bank did not give any opportunity to the petitioner to disclose his case.

12. On careful study of the of the matter, this Commission finds that complainant petitioner was engaged as sanitation worker right from inception of Tripura Gramin Bank, Hrishyamukh Branch. Subsequently, from January 2013 he was engaged as DRW in place of one MCP who was promoted to Office Assistant. He worked in the Tripura Gramin Bank as DRW up to January 2023 and thereafter from February 2023 without any prior notice to the complainant petitioner

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he was discharged from the work of DRW by not allowing him to work on verbal order of the Branch Manager, Hrishyamukh Branch. It is also clear from the documents of the petitioner that in his place another sanitation worker was engaged by the Bank. So the Commission find that the complainant petitioner served as sanitation worker right from his inception in the year 2009 if not earlier and from January 2013 on ward he was engaged as DRW in place of one MCP who was promoted as Office Assistant and he continued his work upto January 2023.

13. This Commission has inherent jurisdiction to recommend action for protection of human rights of an individual/citizen, if it is found that the human rights as defined under the Act is infringed by a public servant or authority. Right to life is a most important fact of human right, which seems to have been taken away whimsically, which need action accordingly to law.

It is clear that the Tripura Gramin Bank, Hrishyamukh Branch did not allow the petitioner to discharge his work as DRW since February 2023, though the complainant petitioner continuously served the branch for a long period w.e.f February 2013 as DRW. No notice was issued to him before he was discharged from his engagement as DRW. His right to life is hampered by the action of Branch Manager, Tripura Gramin Bank, who did not allow him to discharge his duties. If Bank does not have any need to utilise his service as DRW that ought to have been communicated to the complainant. The Branch Manager, Tripura Gramin Bank, Hrishyamukh did not issue any letter to the

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complainant informing him that his service was no longer required. Rather by oral order the complainant was asked not to discharge his duties. The Bank did not show any cause in which circumstances Bank considered that services of the DRW complainant would not be required. When his services as DRW had been utilised for more than 10 years more saying that at present need of services of DRW is over, cannot be considered to be sufficient. The commission is satisfied that by not allowing the complainant to serve the T.G.B, Hrishyamukh Branch without any written accepted reasons, the Branch Manager, Tripura Gramin Bank, Hrishyamukh Branch deprived the complainant from his livelihood and thus violated right to life which need to be resolved. Complainant, after he accepted the work of the bank as DRW did not adopt any other profession to sustain his livelihood alongwith his family. His date of birth is 15.01.1973 as revealed from his citizenship certificate and PRTC and also from his admit card issued by T.B.S.E. Now he has already crossed 50 years of age. At this age, it would be difficult for him to shift to any other profession to maintain his livelihood and to continue the expenses of education of his children. Due to improper action of the Branch Manager, Hrishyamukh Branch, Tripura Gramin Bank, his right to life with dignity has been shaken.

14. The Commission feels that it was quite improper to discontinue his engagement as DRW by the Branch Manager, Hrishyamukh Branch, Tripura Gramin Bank without giving him an opportunity to clarify or explain the allegations as levelled against him. In the circumstances, the Commission

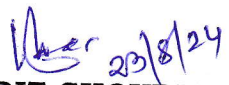
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recommends that the complainant petitioner shall be restored to serve the Hrishyamukh Branch of Tripura Gramin Bank as before as DRW or he shall be given a lump sum compensation of rupees five lakh considering his prolonged service to the Tripura Gramin Bank, Hrishyamukh Branch right from its inception.

15. A copy of this recommendation shall be communicated to the General Manager, Tripura Gramin Bank and also to the complainant.

16. Fixed the next date for action taken report from Tripura Gramin Bank.


(UDIT CHOUDHURI)
MEMBER


(JUSTICE S.C. DAS)
CHAIRPERSON


(B.K.RAY)
MEMBER