

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.35/2023

Sri Pradip Debnath

.....Petitioner(s).

V E R S U S

The State of Tripura & another

.....Respondent(s).

For Petitioner(s) : Mr. Kawsik Nath, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

10/03/2023

Heard Mr. Kawsik Nath, learned counsel appearing for the petitioner. Also heard Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents.

2. This instant writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents to give the benefits of arrear pay and salary pursuant to memorandum dated 07.04.2021 and also to refix the monthly pension and other retiral benefits by extending the benefit of 3rd ACP w.e.f. 31.12.2008.

3. The case of the petitioner, in brief, is that the petitioner joined service on 31.12.1983 as Junior Engineer under the Rural Development Department and retired on superannuation on 31.03.2021

from the post of Assistant Engineer. Pursuant to memorandum dated 07.04.2021 issued by the Executive Engineer-I, office of the Chief Engineer, R.D. Department, the petitioner was placed in the higher scale w.e.f. 31.12.2000. Accordingly, the petitioner became entitled to 3rd ACP benefits after completion of 25 years of service without promotion w.e.f. 31.12.2008 with all consequential benefits and also upon his retirement, he is entitled to refixation of monthly pension and other terminal benefits. Since the petitioner was not extended such benefits, he submitted representation on 24.11.2022 for releasing the benefits of arrear pay and salary w.e.f. 31.12.2000 and also to refix the monthly pension and other retiral benefits by extending the benefit of 3rd ACP w.e.f. 31.12.2008, but the respondents did not give any positive response. Aggrieved thereby, the petitioner has approached this Court by filing this writ petition. Hence, this case.

4. Petitioner has prayed for the following reliefs:

"(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/ orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to give the benefit of arrear pay & salary to the Petitioner in pursuance to the Memorandum dated, 07.04.2021, issued by the Executive Engineer I, O/o the Chief Engineer, RD

Department, by which the Petitioner was placed in the higher scale w.e.f. 31.12.2000.

(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to give the benefit of ACP 3 to the Petitioner on completion of 25 years service in the same post/grade without promotion w.e.f. 31.12.2008 with all consequential benefits.

(iii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to re-fix the regular monthly pension and other pensionary benefit of the Petitioner after granting him the benefit of ACP 3 w.e.f. 31.12.2008.

(iv) Make the rules absolute.

(v) Call for records.

(vi) Pass any further order/orders as this Hon'ble High Court considered fit and proper.”

5. Mr. Kawsik Nath, learned counsel appearing for the petitioner, contends that though upon completion of 25 years of continuous service without promotion the petitioner was entitled to ACP-3 with all consequential benefits and also upon his superannuation on 31.03.2021 the petitioner was entitled to refixation of monthly pension and other terminal benefits, but till date the respondents has not released the aforesaid entitlements in favour of the petitioner despite his

representation dated 24.11.2022. Accordingly, he prays for a direction to the respondents to give the benefits of arrear pay and salary pursuant to memorandum dated 07.04.2021 and also to refix the monthly pension and other retiral benefits by extending the benefit of 3rd ACP w.e.f. 31.12.2008.

On the other hand, Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents, fairly submits to pass orders in accordance with law.

6. Having heard the submissions of learned counsel of respective parties, the present writ petition is disposed of directing the respondents to consider the representation filed by the petitioner on 24.11.2022 in accordance with law within a period of three months from the date of receipt of the copy of this order.

7. With the above observation, the writ petition is disposed of. Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Pulak