

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.193 of 2023

Shri Narayan Chandra Ghosh

.....Petitioner

_V_E_R_S_U_S_

The State of Tripura & 2 Others.

.....Respondents

For Petitioner(s)	:	Mr. B. N. Majumder, Sr. Advocate. Mr. R. Saha, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, G.A. Mr. B. Majumder, Deputy SGI.

HON'BLE THE CHIEF JUSTICE [ACTING]

_O_R_D_E_R_

11/04/2023

Heard Mr. B. N. Majumder, learned senior counsel assisted by Mr. R. Saha, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharjee, learned G.A. and Mr. B. Majumder, learned Deputy SGI appearing for the respondents.

The present writ petition has been filed under Article-226 of the Constitution of India for issuance of an appropriate writ in the nature of Mandamus directing/commanding/mandating the respondents to immediately restore the pension of the petitioner in terms of the judgment and order dated 04.06.2021 passed in W.A. No.56 of 2020 affirmed by the Hon'ble Apex Court in Special Leave Petition (Civil) No.2072 of 2022, dated 26.02.2022 and further, directing the respondents to treat the petitioner equally with the similarly situated employee, namely, Shri Gouranga Dhar, the appellant in the writ appeal No.56 of 2020 extending restoration of full pension on completion of 15 years of retirement.

The petitioner has prayed for the following reliefs:

- i. Issue rule NISI.
- ii. Issue rule NISI calling upon the State respondents or each of them to show cause as to why a writ of mandamus shall not be issued directing/commanding the State respondents to immediately restore the

pension of the petitioner in terms of the judgment and order dated 04.06.2021 passed in W.A. No.56 of 2020 affirmed by the Hon'ble Apex Court in Special Leave Petition (Civil) No.2072 of 2022, dated 26.02.2022 (Annexure-4).

iii. Issue rule NISI calling upon the State respondents or each of them to show cause as to why a writ of mandamus shall not be issued directing/commanding the State respondents to treat the petitioner equally with the similarly situated employee, namely, Shri Gouranga Dhar (Appellant in Writ Appeal No.56 of 2020 extending restoration of full pension on completion of 15 years of retirement.

iv. Issue rule calling upon the respondents or each one of them as to why a writ of mandamus shall not be issued treating the petitioner's status as Pensioner under the Government of Tripura be restored after completion of 15 years period of retirement from his service.

v. As to why such other order orders shall not be passed so as to give full relief to the petitioner and upon causes shown to make the rule absolute."

The brief facts of the present case are that the petitioner was appointed under PWD (Electrical), Govt. of Tripura, in the post of Overseer on 22.09.1965. Thereafter, on 03.01.1976, the petitioner joined to the National Hydro Power Corporation Ltd. in the post of Assistant Project Engineer on deputation w.e.f. 03.01.1976 and permanently absorbed in the said department on deputation w.e.f. 16.10.1984. The petitioner retired on 2nd November, 2003 from state service and opted for commutation of pension interims of Rule-37A of the Pension Rules and by order dated 15.03.1984 his pension was commuted.

On completion of 15 years of pension from State service, the petitioner submitted prayer for restoration of full pension but, the respondents have not considered his prayer for restoration of full pension. meanwhile, a writ petition was filed by another petitioner namely Shri Gouranga Dhar registered as WP(C) No.748 of 2019 for restoration of full pension after completion of 15 years of his retirement following the instruction of the government of India OM dated 23rd June, 2017. The Division Bench of this Court vide order dated 04.06.2021 which was challenged by the respondents before the Hon'ble Apex Court was disposed of on 25.02.2022 holding that the judgment of this Court passed in W.A. No.56 of 2020 cannot be faulted with. The petitioner thereafter,

approached before the respondent seeking similar relief but, the said representation was not attended to.

Hence, the present petition has been filed before this Court by the petitioner for redress.

In view of above and after gone through the material evidence on record, the present writ petition stands disposed of by setting aside the proceeding dated 25.01.2023 of the Sr. Accounts Officer, Office of the Accountant General (A&E), Tripura, Agartala in proceeding No. Pen-2/RC/Misc/2022-2023/13/2970 addressed to Sri Narayan Chandra Ghosh regarding restoration of the full pension after completion of 15 years of commutation. However, the matter is remitted back to the concerned respondent for re-examining the subject matter in the light of the orders passed in W.A. No.56 of 2020 dated 04.06.2021, the order of the Hon'ble Apex Court passed in SLP. No.2072 of 2022 dated 25.02.2022 and also the order passed by this Court in an identical matter being WP(C) No. 194 of 2023, within a period of three months from the date of receipt of the copy of this order.

Accordingly, the present petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

CHIEF JUSTICE [ACTING]

A. Ghosh

