

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.620 OF 2022**

Dr. Hari Sankar Chakraborty

..... **Petitioner(s)**

Vs.

Tripura University(A Central University and ors.)

.....**Respondent(s)**

For the Petitioner(s) : Mr. S. Deb, Sr. Advocate.
Ms. R. Purukayastha, Advocate.

For the Respondent(s) : Mr. B. Majumder, CGC.
Mr. T. Debbarma, Advocate.

Date of hearing and delivery of
Judgment & Order : 14.12.2023.

Whether fit for reporting : YES/NO.

**HON'BLE MR JUSTICE T. AMARNATH GOUD
JUDGMENT AND ORDER(ORAL)**

This present writ petition has been filed under Article
226 of the Constitution of India seeking the following reliefs:-

"i. Issue Rule, calling upon the respondents and each one of them , to show cause as to why a writ of certiorari or in the nature thereof shall not be issued thereby quashing/setting aside the impugned decision, of recovery of alleged amount of Rs.3,59,526/- taken by the Respondent Nos.1, 2 and 3, communicated to the petitioner by letter dated 19.10.2020 issued by the Assistant Registrar & DDO, Tripura University and the subsequent reminder dated 30.03.2022.

ii. Issue Rule, calling upon the respondents and each one of them to show cause as to why a writ a Mandamus, and/or in the nature thereof, shall not be issued directing the respondents to make full and final payment of the arrears of salary, along with available market rate of interest, for the post of Deputy Librarian after providing him the benefit of three outstanding CAS/ACP as his available to him at par his similarly situated employees.

iii. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a writ of Mandamus, and/or in the nature thereof, shall not be issued directing the respondents to make full and final payment of the arrears of retiral benefits, along with available market rate of interest, after

recalculating his retiral benefits on addition of the benefit of three outstands CAS/ACP to his salary.

iv. Issue Rule, calling upon the respondents and each one of them to show cause as to why a writ of Mandamus or in the nature thereof, shall not be issued thereby directing the respondents, to make full and final payment of the arrears of salary attached to the post of Head Librarian, along with available market rate of interest, for the period w.e.f. 01.02.1989 to 31.03.2011.

v. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a writ of prohibition or in the nature thereof shall not be issued thereby directing the respondents, not to take any action in furtherance to the impugned decision, of recovery of alleged excess amount of Rs.3, 59,526/- taken by the respondents No. 1, 2 and 3 communicated to the petitioner by letter dated 19.10.2020 issued by the Assistant Registrar & DDO, Tripura University and the subsequent reminder dated 30.03.2022 and thereby stay the impugned recovery of alleged excess amount till final disposal of the writ petition.

vi. Call for the records appertaining to this petition;

vii. Costs of any incidental to his proceeding;

viii. Any other relief(s) as to this Hon'ble High Court may deem it and proper."

2. Heard Mr. S. Deb, learned Sr. counsel assisted by Ms. R. Purukayastha, learned counsel appearing for the petitioner as well as Mr. T. Debbarma, learned counsel appearing for respondent Tripura University and Mr. B. Majumder, learned counsel appearing for Union-respondent.

3. Mr. S. Deb, learned Sr. counsel appearing for the petitioner submits that the petitioner herein had joined the service of Tripura University on 01.02.1989 in the post of Deputy Librarian and he had superannuated from the post of Deputy Librarian (initial post of appointment) on 31.03.2011. Mr. S. Deb, learned Sr. counsel argued that the communication dated 19.10.2020 issued by the Assistant Registrar & DDO, Tripura University, and reminder dated 30.03.2022 issued by the Assistant Registrar and DDO Tripura University for recovery of alleged excess amount of

Rs.3,59,526/- is illegally and not tenable in the eye of law. Further, the petitioner had approached the respondents, and finally on 10.01.2022, the petitioner submitted representation before respondents Nos. 1 and 2 praying for payment of his entitlement, but till date his prayer has not been granted/replied to.

Learned Sr. counsel further argued that the petitioner has not misrepresented and whatever service at whatever level he had rendered, the salary was paid and thereafter proportionate entitlement and pension was also paid. So, now after his superannuation, the respondents cannot ask the petitioner for recovery of the same citing wrong calculation. In support of this argument, learned Sr. counsel referred to the Judgment of the Hon'ble Supreme Court reported in **(2015) 4 SCC 334** titled as ***State of Punjab and ors. Vs. Rafiq Masih(white washer)***.

4. On the other, Mr. T. Debbarma, learned counsel appearing for the respondent University submits that errors were committed in calculating the arrears, and the same was disbursed on the higher side. It had come to the notice of the Finance Department while doing the audit and it was rectified and subsequently communicated to the petitioner.

5. Heard both sides and perused the evidence on record.

6. The crux of the case revolves around 2(two) issues

i. *Recovery of alleged excess amount of Rs.3,59,526/-*

ii. For considering the case of the petitioner by fixing the CAS/ACP/MACP and post-retiral benefits for which the petitioner had made his representation dated 10.01.2022 which is still pending.

7. In terms of the **Rafiq Masih(white washer)** as relied upon by the learned Sr. counsel appearing for the petitioner, learned counsel appearing for the respondents-University in all fairness submits that the matter is covered under the said Judgment i.e. **Rafiq Masih(white washer)**.

In view of the same, the 1st limb of the issue is accordingly allowed.

8. In so far as 2nd limb of the issue is concerned, the respondents are directed to consider the representation dated 10.01.2022 submitted by the petitioner in accordance with law within a period of 3(three) months from the date of receipt of the copy of this order and communicate the same to the petitioner. On receipt of the said communication, if the petitioner is aggrieved, he is at liberty to challenge the same in accordance with the law.

9. With the above observation and direction, this present writ petition is accordingly allowed to the extent indicated above. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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