

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.495 OF 2023**

Swapan Chandra Acharjee
Vs.
The State of Tripura and ors.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s) : Mr. T.K. Deb, Advocate.

For the Respondent(s) : Mr. K. De, Addl. G.A.

11.08.2023

Order

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 or each of one of them to show cause as to why a writ in the nature of certiorari should not issued quashing/setting aside the impugned letter of the Addl. Secretary, Food, Civil Supplies and Consumer Affairs, Govt. of Tripura vide No.F.2B(11)/ESTT/DF/91/7210, dated 20.05.2023(Annexure-10);

ii. Issue Rule calling upon the Respondents or each one of them to show cause as to why a Writ of Certiorari setting aside the impugned Office Order issued by the Officer In-Charge, Central Stores, AD Nagar, Agartala vide No.F2(2-325)-CS/ESTT/1998/1778-80, dated 6th December, 2021(Annexure-3) and corrigendum dated 08th December, 2021(Annexure-4) should not be passed;

iii. Issue Rule calling upon the Respondents or each one of them to show cause as to why a writ in the nature of Mandamus directing, the respondents 2 & 3 should not be passed for not recover any amount from the pension benefit of the petitioner on account of alleged wrong fixation of pay w.e.f. 01.07.2001;

iv. Issue Rule calling upon the Respondents or each one of them to show cause as to why a writ in the nature of Mandamus directing, the respondents 2 & 3 should not be passed to immediately refund of the amount of Rs.12,38,754/- and also Rs.10,000/- which has also been recovered from the salary of the petitioner.

v. Issue Rule calling upon the Respondents or each one of them to show cause as to why the Respondent Nos.2 & 3 should not be directed for providing admissible rate of interest of @9% over the payment of gratuity for the delayed months of sanction on 6th August, 2022 wherein the petitioner retired on 31.01.2022;

vi. In case the respondents show caused or not your Lordships may be pleased to make the Rules absolute in terms of the prayers made in SI. i. ii. iii. Iv & v as above.

vii. Pending disposal of this Writ petition your Lordships may be pleased to pass an Order to the respondent authorities to release the Provisional Gratuity with 9% interest for the delayed period of sanction order as entitled as per Gratuity Act for the ends of justice;"

Heard Mr. T.K. Deb, learned counsel appearing for the petitioner as well as Mr. K. De, learned Addl. G.A. appearing for the respondents-State.

Vide Order dated 09.08.2023, learned counsel appearing for the petitioner submitted that this case is covered by the Hon'ble Supreme Court Judgments passed in **Civil Appeal No.7115 of 2010** titled as **Thomas Daniel Vrs. The State of Kerala** and **C.A. No.11527 of 2014** (arising out of **SLP©No.11684 of 2012**) titled as **State of Punjab and ors. Vs.Rafiq Masih(White Washer)** and the same needs to be allowed at the admission stage itself.

Thereafter, the matter was listed today at the request of learned Addl. G.A. to ascertain the said legal proposition.

As indicated in the earlier proceeding mentioned here-in-above, today, the learned counsel appearing for the petitioner submitted that the matter is covered by the Hon'ble Supreme Court Judgments passed in *Thomas Daniel(supra)* and *State of Punjab Vs. Rafiq Masih(supra)*.

In all fairness, learned G.A. appearing for the State-respondents submit that the present matter is squarely covered by Hon'ble Apex Court Judgments as represented by learned counsel appearing for the petitioner.

In view of the same, the present writ petition stands allowed and thus disposed of. As a sequel stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

RAJKUMAR
SUHANJIT
SINGHA

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SUHANJIT SINGHA
Date: 2023.08.11
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