

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.856/2022

Sri Kamini Debbarma

.....Petitioner(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Petitioner(s) : None.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

10/02/2023

None appears for the petitioner on repeated calls. Heard Mr. Mangal Debbarma, learned Addl. Government Advocate appearing for the respondents-State.

2. Challenge in the present writ petition has been made to a memorandum dated 17.08.2022 issued by the Director, Elementary Education whereby the post retirement benefit of the petitioner was allowed to be given to Smt. Namita Debbarma at the ratio of maintenance allowance.

3. 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 quash and cancel the Memo, dated, 17.08.2022, issued by the Director, Elementary Education.

(ii) Pass an interim order restraining the Respondents to proceed further with the Memo, dated, 17.08.2022, issued by the Director, Elementary Education.

(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 release the remaining amount of Gratuity to the Petitioner with 10% interest for deferred payment.

(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."

4. Background facts of the case, in short, is that the petitioner got married with Shefali Debbarma in the year 1989 and out of their wedlock two daughters namely Smt. Elahi Debbarma and Smt. Kanindita Debbarma were born. Subsequently, on 26.05.1997 Shefali Debbarma expired leaving behind the petitioner and their two daughters. Thereafter, all on a sudden Smt. Namita Debbarma, who was the caregiver of the two daughters of the petitioner claimed maintenance for

herself and her son Santu Debbarma by filing Misc. Case No.20/2002 and Misc. Case No.13/2005 whereupon learned Court granted Rs.1,500/- as maintenance allowance in her favour. Thereafter, Smt. Namita Debbarma again filed Misc. Case No.05/2008 for enhancement of monthly maintenance before the SDJM, Khowai who also ordered maintenance of Rs.1,500/- to Namita Debbarma and Rs.1,000/- to her minor child, in total Rs.2,500/- was allowed as maintenance allowance which was being given by the petitioner every month. Upon retirement of the petitioner, Smt. Namita Debbarma submitted a claim petition on 07.04.2021 in the Office of the Director, Elementary Education against which petitioner also appeared before the Inquiry committee and submitted his declaration on 12.05.2021. On inquiry, Revenue Officer, Khowai submitted a report before SDM, Khowai stating that after demise of his first wife, petitioner got married with Namita Debbarma and she has one son namely Santu Debbarma. Thereafter, Director, Elementary Education directed the petitioner and Smt. Namita Debbarma vide memo dated 18.01.2022 to appear before him and accordingly, petitioner appeared on 28.01.2022 submitted his oral and written statement. Thereafter, the Director, Elementary Education issued memorandum dated 17.08.2022 stating that post retirement benefit of the petitioner may be allowed to Smt. Namita Debbarma at the ratio of

maintenance allowance. Aggrieved thereby, the petitioner has approached this Court by filing the instant writ petition. Hence, this case.

5. On perusal of the records, it appears that the petitioner has challenged the memorandum dated 17.08.2022 whereby the post retiral benefits of the petitioner was allowed to be given to Smt. Namita Debbarma at the ratio of maintenance allowance by submitting objection vide letter dated 07.09.2022 to the Director, Elementary Education for deduction of such pension benefit. The petitioner retired from service on 31.07.2021 but till date he has not been forwarded with the final withdrawal of GPF and as such, the petitioner approached the Director of Elementary Education vide letter dated 13.09.2022 for release and payment of the GPF final withdrawal but till date the respondent-authority did not pay any heed thereto.

6. In view of above, the respondents are directed to consider the impugned memorandum dated 17.08.2022 issued by the Director, Elementary Education as well as the representation dated 13.09.2022 submitted by the petitioner before the said authority in accordance with law within a period of 3(three) months from the date of receipt of a copy of this order.

7. With the above observations and directions, the writ petition stands disposed of.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

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HIGH COURT OF TRIPURA



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