

**HIGH COURT OF TRIPURA
AGARTALA
WP(C)No.1047 of 2022**

Sri Ratan Bhowmik,
son of late Gour Hari Bhowmik,
resident of Ramnagar Road No.5,
Agartala, P.S. West Agartala,
District-West Tripura, Pin-799002

.....Petitioner(s)

Versus

1. The State of Tripura,
represented by the Secretary to the
Government of Tripura,
PWD (Roads & Buildings), New Capital Complex,
P.O. Kunjaban, P.S. N.C.C., District-West Tripura,
Pin-799006

2. The Secretary
to the Government of Tripura,
Department of Finance,
New Capital Complex, P.O. Kunjaban,
P.S. N.C.C., District-West Tripura,
Pin-799006

3. The Chief Engineer, PWD (R & B),
Government of Tripura, New Capital Complex,
P.O. Kunjaban, P.S. N.C.C., District-West Tripura,
Pin-799006

4. The Executive Engineer,
Rig Division, P.N. Complex, Gourkhabasti

5. The Accountant General (A & E),
State of Tripura, P.O. Kunjaban, Agartala,
District-West Tripura, Pin-799010

.....Respondent(s)

For Petitioner(s)	:	Ms. S. Debgupta, Adv.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI. Mr. D. Sharma, Addl. G.A.

Date of Hearing &

Judgment & Order	:	03.05.2023
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HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order(Oral)

Heard Ms. S. Debgupta, learned counsel appearing for the petitioner as well as Mr. D. Sharma, learned Addl. G.A. appearing for the State-respondents and Mr. B. Majumder, learned Deputy SGI appearing for the Union of India-respondent.

2. This instant writ petition is filed seeking for the following reliefs :

- "i) Admit the petition;**
- ii) Call for the records from the custody of the respondents;**
- iii) As to why a writ of certiorari shall not be issued to set aside the communication along with the calculation sheet vide no.F.6(13)-PWD(GE)/2018(S-1)/20736-38 dated 09.03.2022 issued by respondent No.1 and communication vide no.F.2(18)-EE/Rig/Div./Estt./09/1199-1202 dated 04.08.2022 issued by respondent No.4;**
- iv) As to why a writ of Mandamus shall not be issued directing the respondents to recalculate the last pay and leave salary;**
- v) As to why a writ of Mandamus shall not be issued directing the respondents to recalculate the financial calculation under CAS-I which would be applicable w.e.f. 01.01.1999 as per Rule 10(d) of Tripura State Civil Service (Revised Pay), 1999 after completion of eight years of service as TES Grade V(A) (Cadre Service);**
- vi) As to why a writ of Mandamus shall not be issued directing the respondents to refund the amount along with interest which is wrongly deducted from the gratuity and other pensionary benefit of the petitioner;**
- vii) As to why a writ of Mandamus shall not be issued directing the respondents to recalculate the due drawn statement and fix the pension of the petitioner on the basis of last basic pay amounting to Rs.1,27,042/- and also give direction to recalculate the leave salary of the petitioner on that basis;**
- viii) As to why a writ of certiorari shall not be issued quashing the PPO vide no. PEN-2/AGARTALA-1/1222044437/17/P/22/12/60042863 dated 09.11.2022 issued by Respondent No.5 and direct the Respondent No.5 to issue new PPO by correcting the amount of Basic Pay in light of Tripura State Civil Service (Revised Pay), 1999 and remove the recovery amount amounting to Rs.4,32,047/- for pay and allowances overdrawn and Rs.37,000/- for leave salary overdrawn;"**

3. Ms. S. Debgupta, learned counsel appearing for the respondents has submitted that the petitioner was engaged as Junior Engineer(Mechanical) under

TES Grade-V(A) (Mech) Degree Holder under the Public Works Department, Government of Tripura in the scale of pay of Rs.2,0004,410/- as per officer order dated 27.03.1990. In pursuance of the memo dated 07.12.1992 issued by the respondent No.2, the pay scale of Rs.2000-4410/- under TES Rules has been revised to Rs.2100-4530/- w.e.f. 01.04.1993. According to the petitioner on 17.05.1998, the petitioner has completed eight years of service as TES Grade V(A). In pursuance of the Tripura State Civil Service (Revised Pay), 1999 on 01.01.1999 the petitioner moved to the scale of Rs.10000-15,100/- after completion of eight years of service as Junior Engineer Grade-V(A). According to the said ROP of 1999 the employees of Cadre service will have scale advancement as prescribed in the Annexure-B. This will also be effective from 01.01.1999.

4. The petitioner was retired from service on superannuation as on 31.12.2020 as Assistant Engineer (Mechanical) (TES Grade-IV). The respondent No.4 sent a pension proposal of the petitioner to the Accountant General dated 30.01.2021.

5. According to the petitioner, on 11.03.2021 the respondent No.5 sent a letter to the respondent No.4 by miscalculating the pay of the petitioner for fixation of the pension. On 05.04.2021, the petitioner submitted a prayer to the respondent No.4 by supplying a copy of the same to the respondent No.5 to review the fixation of pay towards finalization of pension proposal. In the said letter, the petitioner has categorically stated that the petitioner was allowed the benefit of CAS as per the Tripura State Civil Service (Revised Pay), 1999 as on 01.01.1999. According to the petitioner the respondent No.5 has miserably failed to interpret the Tripura State Civil Service (Revised Pay)(7th Amendment) Rules,

2001. The petitioner moved to the scale to Rs.10000-15100/- as on 01.01.1999 as per Rule 10(d) of Tripura State Civil Service (Revised Pay), 1999 after completion of eight years of service. The 7th Amendment of TSCS Rules of 2001 is not applicable for fixation of CAS-I for the petitioner. The petitioner also prayed for review of fixation of pay and pension which is wrongly calculated by the respondent No.5.

6. Having heard both sides this court directed the respondents to release the amount which has been miscalculated at the time of issuance of PPO on 09.11.2022 has given a recovery details where it reveals that the recovery amount is Rs.4,32,047/- for pay and allowances overdrawn and Rs.37,000/- for leave salary overdrawn. The respondent No.4 miscalculating the pay and allowances by giving effect of CAS-I from 01.01.2000 instead of 01.01.1999 assessed the aforesaid amount of Rs.4,32,047/- + Rs.37,000/-=Rs.4,69,047/- which is liable to be rectified and which was withheld. Since the said amount falls under the terminal benefits, they cannot be attached pertains to that retirement benefits of the petitioner as decided by the Hon'ble Supreme Court of India in many cases. Accordingly, the same be released in favour of the petitioner by recalculation. In so far as any other further relief is concerned, the petitioner is given liberty to represent the matter before the concerned respondents.

With the above observation and direction the writ petition stands disposed of.

JUDGE