

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.23 of 2024

1. Tripura State Council for Science and Technology, represented by its Member Secretary, Department of Science and Technology and Environment, PN Complex, Vigyanbhavan, Gorkhabasti, Agartala, West Tripura, Pin-799006.
2. The Joint Member Secretary, Department of Science and Technology and Environment, PN Complex, Vigyanbhavan, Gorkhabasti, Agartala, West Tripura, Pin-799006.

..... Appellant (s)

V E R S U S

1. Shri Nataraj Datta, S/o Lt. Nirad Ranjan Datta, resident of 19, Shibnagar, Santi Para, Agartala, West Tripura, Pin-799001.
2. The State of Tripura to be represented by Secretary-cum-Commissioner, Department of Science, Technology and Environment, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S-New Capital Complex, Agartala, West Tripura, Pin-799010.
3. The Secretary, Department of Finance, New Secretariat, New Capital Complex, P.S. New Capital Complex, Agartala, West Tripura, Pin-799010.
4. The Director, Department of Science, Technology and Environment, Government of Tripura, Vigyan Bhavan, Gorkhabasti, PN Complex, Agartala, West Tripura, Pin-799006.
5. Life Insurance Corporation of India to be represented by the Manager, I/C, (Pension and Group Schemes), Silchar Division Office, Meherpur, P.O.- Silchar, District-Cachar, Assam-788015.

..... Respondent(s)

For Appellant (s)	:	Mr. Karnajit De, Addl. GA.
For Respondent(s)	:	Mr. P. Roy Barman, Sr. Advocate, Mr. Kohinoor N. Bhattacharyya, G.A., Mr. Samarjit Bhattacharjee, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

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15/05/2024

Heard Mr. Karnajit De, learned additional Government Advocate for the appellants and Mr. P. Roy Barman, learned senior counsel together with Mr.

Kohinoor N. Bhattacharyya, learned Government Advocate assisted by Mr. Samarjit Bhattacharjee, learned counsel for the respondents.

[2] Vide impugned judgment dated 08.01.2024 the learned writ Court directed the appellant to pay post-retiral benefits to the writ petitioner under the Deed of Trust i.e. LIC Linked Terminal Benefit Scheme introduced from 01.01.2016 that is under the 3(three) schemes of LIC i.e. LIC's New Group Gratuity Cash Accumulation Plan, LIC's New Group Leave Encashment Plan and LIC's New Group Superannuation Cash Accumulation Plan. The learned writ Court also repelled the contention of the respondent-Tripura State Council for Science and Technology-appellant herein that the Deed of Variance executed on 18.03.2023 (Annexure-15 of the writ petition) will not have retrospective effect to modify the benefits available under the Deed of Trust executed on 27.01.2016 since the petitioner retired from service on 31.10.2019 during the subsistence of the original Deed of Trust. The learned Court, therefore, directed payments to be made towards all the post-retiral benefits to the writ petitioner under the above three schemes apart from other benefits within a period of eight weeks after making adjustment of what have already been paid.

[3] Mr. Karnajit De, learned additional Government Advocate for the appellant has assailed the impugned judgment on the ground that the State Government had made certain observations for correction of the Deed of Trust. The writ petitioner being the person holding responsible post in the Tripura State Council for Science & Technology (for short, the State Council) was under obligation for proper implementation of actual object of this scheme and directions of the Government. The writ petitioner has not challenged the Deed of Variance in the writ petition and, therefore, could not argue on the

validity of such Deed of Variance. He further submits that correction of the original Deed of Trust was pointed out by the Finance Department prior to the retirement of the petitioner. The basic fund flow for implementation of the schemes in the State Council was sourced from Finance Department and therefore, without approval of Finance Department or in disobedience to their instructions, it is/was not possible to extent any sort of benefit to any employee of the State Council. Therefore, when the observation of the Finance Department was in existence, no entitlement of the petitioner accrued as per the previous scheme. Therefore, the impugned judgment is bad in law to that extent.

[4] Mr. P. Roy Barman, learned senior counsel for the writ petitioner has submitted that the Deed of Trust was created pursuant to the concurrence of Finance Department letter dated 04.11.2015 followed by the decision of the Executive Committee of the State Council. It was introduced *with effect from* 01.01.2016 and options were also obtained from the employees of the State Council. Writ petitioner accordingly opted for coverage under these schemes leaving the EPF Scheme discontinued. Deed of Trust was also executed which was made irrevocable having certain powers to amend the scheme. Taking of option from the writ petitioner to come under the coverage of said schemes, was an implied promise of the employer giving rise to a legitimate expectation in the mind of the writ petitioner that he would be governed by the said scheme and would get all the benefits under the said scheme on his retirement. It is submitted that earlier in W.P.(C) No.150 of 2020, the disputed issues were dealt with by a coequal Bench and it was held that the entire property was entrusted to the trust, the council being the establishment of the Government of Tripura cannot put any restrictions asking the LIC not to release pensionary benefits in favour of the

retired employees. It was also observed that earlier the EPF Scheme was closed on the pretext that the contribution would be deposited to the LIC and employees would get pension as per the new scheme. Therefore, non-payment of pensionary benefits under the new scheme was illegal and arbitrary. The impugned judgment is, therefore, proper in the eye of law. He also submits that post-retiral benefits have been conferred upon other similarly situated persons who have retired during the subsistence of the original Trust Deed.

[5] We have considered the submissions of the learned counsel for the parties and taken note of the material pleadings placed from record. We have also examined the ground urged in order to lay challenge to the findings of the learned writ Court. We find that petitioner has superannuated on 31.10.2019 prior to issuance of Deed of Variance on 18.03.2023 and during the subsistence of the Deed of Trust executed on 27.01.2016 made effective from 01.01.2016. It is not disputed by the learned counsel for the appellant that post-retiral benefits under the three schemes under the Trust Deed have been granted in favour of similarly situated persons who have superannuated till the Deed of Variance was issued. The learned Single Judge has taken note of the relevant material facts and also referred to decisions of the Apex Court in the case of (i) ***National Buildings Construction Corporation vs. S. Raghunathan and others*** reported in (1998) 7 SCC 66; (ii) ***Bharat Sanchar Nigam Ltd. and others etc. versus M/S Tata Communications Ltd. etc.*** [Civil Appeal No.1699-1723 of 2015]; and (iii) ***The State of Jharkhand and Ors. Vs. Brahmaputra Metallics Ltd. and Ors.,*** [Civil Appeal Nos.3860-3862 of 2020 decided on 01.12.2020] on the law relating to promissory estoppel and proceeded to hold as under:

“[27] The Apex Court in ***Bharat Sanchar Nigam Ltd. (supra)*** has already held that any Government circular/order cannot be given retrospective effect. Therefore, the Deed of Variance cannot be

allowed to be applied retrospectively upon the petitioner by the respondents. As per enclosure R/3 of the counter affidavit as indicated above, under the previous scheme total 39 numbers of employees were covered and till 13.12.2018 total financial benefits of Rs.88,87,169/- was provided to the employees under the said scheme. Therefore, the petitioner cannot be allowed to be treated arbitrarily and inequally with other retired employees who have been already provided such benefits under the previous scheme. Indeed there is no dispute that the fund flow is sourced from the state exchequer and therefore, the respondents have their every right to make appropriate provisions for providing retiral benefits to the employees of the State Council but after such new provisions are made by the respondents, same cannot be applied retrospectively.

[28] In view of above, the writ petition is allowed. It is held that the post-retiral benefits of the petitioner will be guided by the scheme under the Deed of Trust i.e. LIC Linked Terminal Benefit Scheme as was introduced from 01.01.2016 and therefore, the petitioner will be entitled post-retiral benefits as per above said 3[three] schemes of LIC i.e. LIC's New Group Gratuity Cash Accumulation Plan, LIC's New Group Leave Encashment Plan and LIC's New Group Superannuation Cash Accumulation Plan. It is also held that the Deed of Variance will have no retrospective effect and subsequently the letter dated 18.03.2023 issued by the Head of Office and DDO, Tripura, State Council to the Senior Manager, P & GS Unit, LIC of India, Division Office Meherpur, Silchar-15 [Annexure-15 of the writ petition] will have no application in case of the present petitioner. The respondents are therefore, directed to make payment within 8[eight] weeks from today of all the post-retiral benefits to the petitioner as per above said 3[three] Schemes apart from other benefits, if any, which he is otherwise entitled as per other rules/laws, after making of adjustment of what have already been paid".

[6] On due consideration of the submissions of the learned counsel for the parties, we do not find any error in the impugned judgment. Accordingly, the instant appeal is dismissed. Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ