

HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 215 of 2024

Sri. Kaizar Dev Barma,
S/o- late Samarendra Debbarma, R/o- Palace
Compound, Haradhan Sangha, P.O Agartala, District-
West Tripura, PIN-799001.
.....Petitioner(s)

Versus

- 1. The State Of Tripura,**
To be Represented by the Commissioner cum Secretary, Dept. of Industries and Commerce, Govt. of Tripura, New Secretariat Building, P.O Kunjaban, Agartala, West Tripura, Pin-799006.
- 2. The Director,** Deptt. Of Industries and Commerce, Govt. of Tripura, Gurkhabasti, P.O Kunjaban, Agartala, West Tripura, Pin-799006.
- 3. The Additional Director,** Deptt. Of Industries and Commerce, Govt. of Tripura, Gurkhabasti, P.O Kunjaban, Agartala, West Tripura, Pin-799006.
- 4. The Union of India,** (To be represented by) The Secretary, Ministry of Finance, Department of Expenditure, Government of India, Room No. 76, New Delhi, Pin- 110001.
- 5. The Principal Accountant General (A & E),** Tripura, PO – Kunjaban, Agartala-799006, District-West Tripura.

.....Respondent(s)

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. Samarjit Bhattacharjee, Advocate. Mr. K. Nath, Advocate.
For the Respondent(s)	:	Mr. B. Majumder, Dy. SGI. Mr. D. Bhattacharya, Sr. Advocate. Mr. S. Saha, Advocate. Ms. R. Chakraborty, Advocate.
Date of hearing and delivery of Judgment & Order	:	04.12.2024
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)

04.12.2024

Heard Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharya, learned Sr. counsel assisted by Mr. S. Saha, learned counsel appearing for the respondent-Accountant General. Mr. B. Majumder, learned Dy.SGI appearing for the respondent-Union of India. Ms. R. Chakraborty, learned counsel also present for respondent-State.

[2] The brief facts of the case is that the petitioner herein retired from service on 31.01.2024 on superannuation from the post of Addl. Director (Industries & Commerce), Department of Industries & Commerce, Govt. of Tripura. On the basis of a written complaint dated 04.03.2020 by the then Dy. Secretary, Industries and Commerce, Govt. of Tripura an FIR vide No. 038 dated 04.03.2020 has been registered against the petitioner herein for committing offence by violating Delegation of Financial Power Rules Tripura-2011. Thereafter, criminal proceedings were initiated against the petitioner and the petitioner herein also submitted several representations and lastly by a letter dated 05.03.2024 issued by the Additional Director, (I & C), Govt. of Tripura the respondent withhold the post retiral benefits of the petition. Hence this petition.

[3] Being aggrieved and dissatisfied with the letter dated 05.03.2024, the petitioner sought for the following reliefs:-

"a) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other

order/orders shall not be issued whereby quashing and cancelling the letter, dated, 05.03.2024 issued by the Addl. Director, Industries & Commerce, Govt. of Tripura.

b) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to cause release of regular monthly pension, full & final payment of gratuity, leave encashment benefit, provident fund benefit, group insurance benefit in favour of the Petitioner, with 9% interest w.e.f. 01.03.2024 till payment is made.

"And

Call for the records pertaining to the instant Writ Petition from the custody of the Respondents and to make the rule absolute."

[4] Mr. P. Roy Barman, learned sr. counsel submits before this Court that his client is falsely implicated in a criminal proceeding and mere lodging of an FIR and filing of charge-sheet cannot be equated with being found guilty of grave misconduct in a departmental or judicial proceedings. He contended that the petitioner herein does not fall under the ambit of Rule-9 of CCS (Pension) Rules, 1972. He further submits that only if the employee is found guilty of grave misconduct in which a departmental proceeding or criminal trial has been held then only a part of pension and gratuity can be withheld. Under no circumstances gratuity can be withheld.

[5] Mr. Roy. Barman, learned Sr. counsel also states that the perusal of the FIR dated 04.03.2020, makes it clear that the allegation against the petitioner is that the petitioner has violated the Delegation of Financial Power Rules, Tripura 2011 whereas the Delegation of Financial Power Rules Tripura-2011 was not adopted by

Tripura Khadi & Village Industries Board (TKVIB) during the period pertaining to the alleged offence committed by the petitioner as per the FIR. He, therefore urges before this Court to set aside the order.

[6] On the other hand, Ms. R. Chakraborty, learned counsel appearing for the respondent-State submits that while the petitioner was posted as Executive Officer of TKVIB, hired a vehicle without inviting any tender and paid cost of hiring charges without prior approval of the competent authority. Further the learned counsel states that the petitioner misappropriated the public fund of the TKVIB, connected with construction works of boundary wall. Therefore, she prays before this court to dismiss the petition.

[7] After perusal of the record, this court is of the view that there is no 2011 Financial Rules invoked when certain allegations in 2014 and 2015 were made against the petitioner and there is no direct financial irregularity by not following certain procedure construction has been made and also the vehicle which was under his control was used, since the same are not attracting 2011 Financial Rules. This Court finds that the respondents are not entitled to withhold the payment i.e, to be made to the petitioner.

[8] In view of the above observation, respondents are directed to release the amount which are withheld by them on account of the criminal case i.e, filed vide FIR No. 038 of 04.03.2020 within 2 months from the date of receipt of the copy of this order. Accordingly, the impugned order dated 05.03.2024 is set aside.

[9] With the above observation and direction, this present writ petition stands allowed and accordingly, the same is disposed of. As a sequel, miscellaneous application(s), pending if any, shall stand closed.

JUDGE

HIGH COURT OF TRIPURA



सत्यमेव जयते

Paritosh

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