

HIGH COURT OF TRIPURA

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WP(C) No.321 of 2023

Sri Shibabrata Bardhan, son of late Satyabrata Bardhan, resident of College Tilla Road Extension, P.O. College Tilla, Shibnagar, District- West Tripura.

..... *Petitioner(s)*

V E R S U S

1. The State of Tripura, represented by the Secretary, Power Department, Government of Tripura, New Capital Complex, Secretariat Building, Lichubagan, P.O. Kunjaban, Agartala, District- West Tripura.
2. Tripura State Electricity Corporation Limited, represented by the Chairman, Bidyut Bhavan, Banamalipur, P.O. Agartala, West Tripura.
3. The Managing Director, Tripura State Electricity Corporation Limited, Bidyut Bhavan, Banamalipur, P.O. Agartala, West Tripura.
4. The Director (Finance), Tripura State Electricity Corporation Limited, Bidyut Bhavan, Banamalipur, P.O. Agartala, West Tripura.
5. Finance Department, represented by the Secretary, Government of Tripura, New Capital Complex, Agartala, District- West Tripura.
6. Public Works Department, represented by the Secretary, Government of Tripura, New Capital Complex, P.O. Kunjaban, Agartala, West Tripura.
7. The Deputy Secretary, Public Works Department, Government of Tripura, New Capital Complex, Agartala, West Tripura.
8. The Chief Engineer, Public Works Department (R & B), Government of Tripura, New Capital Complex, Agartala, District- West Tripura.

..... *Respondent(s)*

For Petitioner(s) : Mr. Rajib Saha, Advocate,
Mrs. R. Purkayastha, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.,
Mrs. Riya Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of argument and delivery of Judgment & Order : 6th September, 2024

JUDGMENT & ORDER (ORAL)

Heard Mr. Rajib Saha learned counsel assisted by Mrs. R. Purkayastha, learned counsel appearing for the petitioner and also heard Mr. Mangal Debbarma, learned Additional Government Advocate appearing for the State-respondents.

[2] Admitted facts are that the petitioner was engaged in the Tripura State Electricity Corporation Limited (*TSECL, for short*) on contract basis for initial period of three years on 30.06.2006 (Annexure-1) to the post of Manager(Finance). His services were absorbed in the Corporation and regularized vide memorandum dated 17.11.2012 *with effect from* 07.07.2006 i.e. the date of joining in TSECL in the prescribed scale of pay and pay band. Petitioner subsequently applied for and got selected for the post of Financial Controller, Group-A in the Public Works Department, Government of Tripura. He was offered appointment vide notification dated 03.06.2016. He accordingly joined in the Office of Chief Engineer, PWD (PMGSY), Agartala, Tripura on 20.07.2016 (Annexure-4 to the writ petition). He tendered resignation from the post of Manager(Finance), TSECL which was accepted on 19.07.2016. After tendering his resignation from the post of Manager(Finance), he claimed the benefit of death-cum-retirement-gratuity for the length of service of 10 years and 12 days spent in TSECL. Accordingly, payment of DCR for an amount of Rs.2,73,127/- was sanctioned in his favour vide memorandum dated 08.12.2016. It was passed by the treasury and necessary payments have also been made in his favour.

[3] Petitioner also claimed the benefit of Final Settlement of PF account and Pension withdrawal benefit which was forwarded in the nature of a composite claim in Form-19 (PF Final Settlement) and 10-C (Pension withdrawal Benefits) against PF account No.NE/AGT/8040/03 and UAN No.100350404786 to the Office of the Regional P.F Commissioner, Employees Provident Fund Organization, Sub Regional Office, Agartala

vide letter dated 28.04.2017 (Annexure-R/3) to the counter affidavit of the respondent-PWD. It is the stand of the present employer i.e. the PWD contained in their counter affidavit that petitioner has got the benefit of final withdrawal of provident fund to the tune of Rs.4,35,227/-, final withdrawal pension fund contribution to the tune of Rs.1,99,716/- which has been disbursed to his account. Therefore, according to them, petitioner has enjoyed the maximum pensionary benefit except the benefit of leave salary of his past service in TSECL for the period 07.07.2006 to 19.07.2016. It is the stand of the respondents that in terms of Rule 35 (6) (a)(ii) of the Tripura State Civil Services (Leave), Rules, 1986, if a Government servant resigns or quits service, he may be granted *suo moto*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date of cessation of service, to the extent of half of such leave at his credit, subject to a maximum of 120 days (now it is 150 days). Therefore, the respondent-PWD has taken a stand that since petitioner had a credit of 228 days of earned leave while serving in TSECL, in the light of Rule 35(6)(a)(ii) of the Leave Rules, 1986, he is entitled to get 114 days of leave salary only if the competent authority i.e. TSECL desires to make payment of 114 days of leave salary to the petitioner.

[4] Mr. Mangal Debbarma, learned Additional Government Advocate submits that the grievance of the petitioner in relation to counting of his earned leave accrued under TSECL stands redressed.

[5] Mr. Rajib Saha, learned counsel for the petitioner submits that so far as this prayer of the petitioner is concerned, it stands satisfied. However, petitioner has also made a prayer for counting of his past service under TSECL. Such representation dated 19.02.2021 (Annexure-18) is pending before the respondent-PWD. He submits that petitioner has also relied upon notification dated 18.07.2012 issued by the Additional Secretary (I&C), Directorate of Industries & Commerce, Government of Tripura, Agartala in support of his prayer. He submits that petitioner is also ready to refund the amount of pensionary benefits to the TSECL for the purposes of counting his past service under the present employer. Therefore, for consideration of those grievances, the competent authority under the respondents may be directed to decide his representation, in accordance with law.

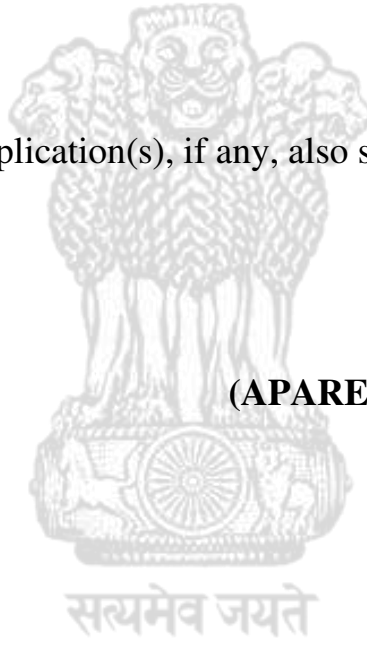
[5] Learned counsel for the State submits that claim of counting of past service and pay protection after availment of the final settlement of pensionary benefits and provident fund withdrawal claim etc. should not be allowed to be reopened by the petitioner. However, he submits that since the said issue has not been seriously pressed in the present writ petition and that the petitioner has made representation before the concerned department, the competent authority may be directed to consider it in accordance with law and under the relevant rules.

[6] Having regard to the aforesaid facts and circumstances noted above, the writ petition is disposed of with liberty to the petitioner to pursue his representation dated 19.02.2021 (Annexure-18) before the competent

authority under the respondent-PWD for the purposes of counting his past service under TSECL. If so required, petitioner will have to submit an undertaking to refund the benefits already received under PF final settlement and pension withdrawal benefits etc. for counting of his service under TSECL. Needless to say, the respondent authority would consider such claim of the petitioner, in accordance with law within a reasonable time, preferably within a period of 4(four) months from the date of receipt of copy of this order.

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

(APARESH KUMAR SINGH) CJ



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