

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.89 of 2024

1. Prof. Dr. Kamalakant Sharma, Son of Late Ram Gopal Sharma, Residing at Flat No.A2/503, Celina Apartments, Behind Ranka Jewellers, Baner Road, Pune-411045, Maharashtra.

.....Appellant(s);

Versus

1. Union of India, represented by Secretary, Government of India, Ministry of Education, Department of Higher Education, New Delhi-110001
2. The University Grants Commission, represented by Chairman, Bahadur Shah Zafar Marg, New Delhi-110002
3. The Tripura University (A Central University), Registrar, Tripura University (A Central University), Suryamaninagar-799022, Tripura University Sub-Post Office, P.S. Amtali, District West Tripura
4. The State of Tripura, represented by Secretary, Government of Tripura, Education (Higher) Department, New Secretariat Complex, P.O. Kunjaban-799006, P.S. East Agartala, West Tripura.

.....Respondent(s).

For Appellant(s)	: Prof. Dr. Kamalakant Sharma, Appellant-in-Person.
For Respondent(s)	: Mr. Bidyut Majumder, Deputy SGI, Mr. Debalay Bhattacharya, Sr. Advocate, Mr. D. Sharma, Addl. G.A., Mr. Soumyadeep Saha, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

29/07/2024

Heard Prof. Dr. Kamalakant Sharma, appellant-in-person and Mr. Debalay Bhattacharya, learned senior counsel for the respondent-Tripura University. Also heard learned Additional Government Advocate Mr. D. Sharma appearing for the respondent-State.

2. The impugned judgment dated 24.06.2024 disposes of WP(C) No.224/2024 after recording the entire chronology and list of events relating to the claim of the petitioner/appellant herein for service and post retirement benefits as a Professor of the respondent-University upon his retirement on

31.03.2007 till the admissible amounts were paid along with interest to the petitioner and his representations dated 16.12.2022 and 16.01.2023 were disposed of by the University upon observation of the Review Court vide its order dated 18.04.2022 passed in Review Petition No.07/2022 by order dated 21.03.2023. The chronology of dates and events further recorded by the learned Writ Court with pains shows that the petitioner did not rest at that and made again representation though no such further liberty to make such representation was allowed to the writ petitioner in the order passed in the review petition. His further representation was made on 20.05.2023 which has been extracted in extenso in the impugned judgment. However, the learned Writ Court, after recording the entire chronology of dates and events, came to a considered finding that the writ petition was devoid of merit, but considering the facts and circumstances of the case, no order was passed as to costs. The learned Writ Court however observed that the University is expected to deal with the representation of the writ petitioner made on 20.05.2023 once again after disposal of the earlier representation vide order dated 21.03.2023. The writ petitioner being aggrieved by the dismissal of the writ petition is before this Court in appeal.

3. The sum and substance of the grievance of the petitioner/appellant herein is that the computation of outstanding dues paid to him under service and post retirement benefits is not proper and in the light of subsequent pay revisions. The computation has been made as per 3rd Pay Revision applicable in the University. On the part of the respondent-University Mr. Debalay Bhattacharya, learned senior counsel has drawn the attention of the Court to the

chronology of events recorded in the impugned judgment itself and submitted that each and every contention of the petitioner made through his representations dated 16.12.2022 and 16.01.2023 have been dealt with as per the relevant provisions of the University statute and regulations and disposed of vide order dated 21.03.2023 finding none of his claims tenable on law or on facts. He also submits that there was no occasion for the petitioner to make a further representation after the matter had attained finality by virtue of the payment of admissible service and post retirement dues and interest at the rate of 7% in favour of the petitioner totaling Rs.(51,62,074/- + 22,10,175/-) =73,72,249/-. As such, he submits that there is no merit in this appeal.

4. We have considered the submission of appellant-in-person, learned senior counsel for the respondent-Tripura University and learned Additional Government Advocate for the respondent-State. We have also perused the records. Though the records are voluminous and spread over a period of several years since appellant's retirement on 31.03.2007, but to sum up we only refer to the relevant chronology of dates and events.

It is indeed true that the petitioner/appellant herein was compelled to approach this Court in WP(C) No.1361/2019 for payment of service and post retirement dues, though he had retired on 31.03.2007. Be that as it may, the learned Writ Court being satisfied with the grievance of the petitioner disposed of the writ petition with a direction upon the University to pay all his admissible service and post retirement dues together with interest at the rate of 7% from the due date till it was actually paid. Being dissatisfied with the order, the University went in appeal by filing WA No.449/2020 which was disposed

of on 13.12.2021 without interfering in the order of the learned Writ Court however with a concession to the University to pay the interest portion in a further period of four weeks from the date of the order. Still dissatisfied, a review petition was filed being Review Petition No.07/2022 which was disposed of on 18.04.2022 without interfering in the impugned direction of the learned Writ Court.

5. When the review petition was being heard before the learned Review Court, it was placed that the interest component of Rs.22,10,175/- has also been paid in favour of the petitioner by then. However, the learned Review Court while disposing of the review petition left a liberty in favour of the petitioner that if he is aggrieved by the computation part of the total amount paid to him, he is at liberty to make a representation before the respondent-University. Petitioner, however, besides raising certain disputes regarding computation of the amount paid also raised substantive claim regarding his coverage under CCS (Pension) Rules CPF Scheme; instead of WB State aided University Scheme, 1986; benefit under CAS Scheme; retirement at age of 65/70 years instead of 60 years, etc. which were not open for being raised after the claim has reached finality by virtue of the judgment passed in WP(C)1361/2019 and WA 449/2020. The liberty to file representation was only regarding the computation of total amount paid in compliance of the above judgment as per the Review judgment dated 18.04.2022. Those representations dated 16.12.2022 and 16.01.2023 have been disposed of on 21.03.2023 by the respondent-University. The entire communication dated 21.03.2023 has been extracted by the learned Writ Court and is usefully again reproduced hereunder:

No.F.TU/REG/PFN-02/07(V-I)

Date:21.03.2023

To
Prof. Dr. Kamalakant Sharma
PFlat: A-2/503, Wellworth Celina Apartments,
Behind Ranka Jewellers
Baner Road, Baner
Pune-411045, Maharashtra
Email:kshrmah@gmail.com

Subject: Equitable, fair and just delivery of legitimate claims and dues et al– reg.

Sir,

Please find the reply with reference to your letter dated 16.12.2022 and 16.01.2023 on the above mentioned subject:

1.Reply to prayer no (i). The petitioner is entitled to Gratuity amounting to Rs.2,40,000/-. The full and final gratuity amount has already been paid to the petitioner on 01-10-2019. The petitioner is guided under CPF scheme.

2. Reply to prayer no. (ii). The petitioner is not entitled to pension under CCS Pension Rules 1972. When he was in service he was guided by West Bengal State aided University Scheme 1986 and he has been drawing pension as per the West Bengal State Aided Universities (Death-cum-Retirement Benefit) Scheme 1986. The Petitioner superannuated from the post of Professor of Mathematics on 31-03-2007 after attaining the age of 60(sixty) from Tripura University during the State period. Subsequently, Tripura University was converted into Central University w.e.f. 02-07-2007.

3. Reply to prayer no. (iii & v). As per the judgment dated 20-10-2020 in W.P(C) 1361 of 2019 the matter regarding the eligibility for promotion under CAS has already been decided. It was observed by the Hon'ble High Court that "Regarding his date of promotion under CAS, the University's stand is that as per the recommendation of the committee he was granted such promotion w.e.f. 29-04-2003. His case is that the same should have been granted w.e.f. 05-12-1993 from the date of his eligibility. It is well settled that mere eligibility for promotion does not automatically result into right of promotion. Such promotion depends on range of factors including suitability of the employee concerned. Nothing is produced on record that to suggest that the decision of the University based on recommendations of the expert committee was irregular or illegal. More importantly, if according to the petitioner, he should have been promoted in the year 1993, he ought to have ventilated his grievances before appropriate forum within reasonable time. First time he raised this issue in the previous writ petition being W.P(C) No.577 of 2019. Any such prayer would thus be hopelessly barred by delay and laches."

4. Reply to prayer no (iv). As per the judgment dated 20-10-2020 in W.P(C) 1361 of 2019 it was observed by the Hon'ble High Court that "His request for shifting over CPF to GPF was also correctly not accepted. Firstly, such a prayer was made long after retirement. Secondly, there is no basis shown under which such a fresh option was made available to the employee by the University."

5. Reply to prayer no(vi). As per the judgment dated 20-10-2020 in W.P(C) 1361 of 2019 it was observed by the Hon'ble High Court that "Lastly, his request for reimbursement of amount of expenditure for his shifting to home town cannot be granted because there is no provision for re-imbursement for shifting to home town after retirement under the rules of Tripura University as a State University.

6. Reply to prayer no (vii). That it is crystal clear from the records that the Tripura University did not cause any damages, loss etc to the petitioner or his family. These allegations are baseless, concocted and are only done to malign the reputation of the institution. The petitioner had retired from the post of Professor on attaining the age of 60 years. Accordingly, he superannuated w.e.f. 31-03-2007 when he attained the age of 60 years on 16-03-2007. The petitioner fails to show under which provision of law the services of the petitioner be continued upto the age of 70 years.

7. Reply to prayer no (viii, ix, x). The prayers made by the petitioner are repetitive and the same has been decided by the Hon'ble High Court of Gauhati in W.P(C) No.303 of 2010 which was dismissed by Judgment dated 22-12-2011. Dissatisfied by the judgment the petitioner preferred W.A no.07 of 2012 which was also dismissed by judgment dated 25-04-2012. The petitioner thereupon filed SLP before the Supreme Court, which was also dismissed by order dated 13-02-2017. Subsequently the petitioner had filed another writ petition before the High Court of Tripura being W.P.(C) 577 of 2019 which similar prayer with a direction to make representation to the Vice Chancellor of the Tripura University. The petitioner made his

representation to the Vice Chancellor of the Tripura University on 15-05-2019. The Vice Chancellor of the Tripura University to him on 09-07-2019 in which most of his prayers were rejected. Subsequently the petitioner had filed another writ petition before the High Court of Tripura being W.P(C) 1361 of 2019 which was disposed off by judgment dated 20-10-2020. Subsequently appeal was filed by the Tripura University being W.A 449 of 2020 which was dismissed by order dated 13-12-2021, subsequently the Tripura University had filed Rev. pet No.07 of 2022 which was disposed off by order dated 18-04-2022. The directions of the Hon'ble High Court was complied with and all the dues along with the interest amount has been paid to the petitioner. The interest payable on delayed payment of retiral benefits was made in accordance to the direction of the High Court of Tripura in Rev. pet No.07 of 2022. The details of the payment is PFMS Transaction ID C042248174856 dated 29-04-2022. The interest amount calculated and paid a sum of Rs.22,10,175/- as per the order of the Hon'ble High Court of Tripura. No erroneous calculation has been made by the University.

Hence the prayers made by the petitioner are rejected, these prayers were already decided by the Hon'ble High Court of Gauhati, High Court of Tripura and Supreme Court of India in several petitions filed by the Petitioner on the same ground. However as per the directions of the High Court of Tripura passed in W.P(C)850 of 2022 by order dated 14-12-2022, Tripura University has meticulously gone through all your prayers and on the above mentioned facts and circumstances reject the prayers made by you in your representation dated 16-12-2022.

With regard.

Yours faithfully,

(Dr. Deepak Sharma)
Registrar

Petitioner apparently still dissatisfied with the disposal of his representation made another representation for which no further liberty was granted by the Review Court. The entire extract of his representation dated 20.05.2023 is contained in para-11 of the impugned judgment and runs over sixteen pages which we do not intend to reproduce. Having been confronted with such approach of the litigant, the learned Writ Court did not find any convincing ground to interfere in the matter as apparently computation of service or post retirement benefits could not be gone into in writ jurisdiction. The learned Writ Court was however gracious to observe that the University is expected to deal with the representation of the petitioner dated 20.05.2023. However, we are of the opinion that such observation was unnecessary.

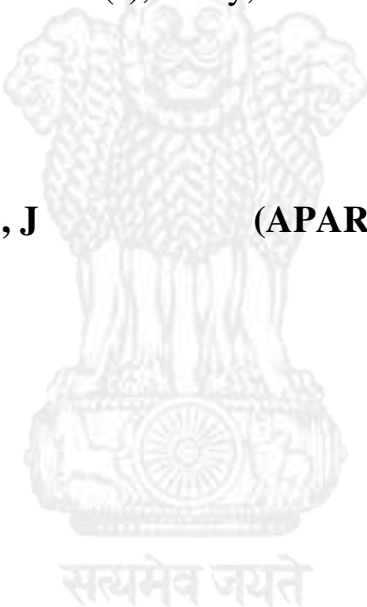
6. As such, taking into account all these facts and circumstances, we are of the considered view that the amounts due and admissible under service and post retirement benefits along with interest having been paid in favour of

the writ petitioner by virtue of the judgment passed by the learned Writ Court and upheld by the subsequent appellate and review Courts, the question of computation cannot be re-agitated in writ jurisdiction. Petitioner is left with a liberty to pursue his remedies before the competent Court of civil jurisdiction where relevant questions of facts may be determined on pleadings and evidence produced by the parties. The instant appeal is, therefore, dismissed.

7. Pending application(s), if any, shall stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ



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