

**HIGH COURT OF TRIPURA  
AGARTALA  
WP(C) NO.679 OF 2023**

**Achyut Kumar Das, Age 70 years,**  
S/o-Lt. Amiya Ranjan Das,  
R/o- Badharghat Chowmuhani,  
Near Tripura Gramin Bank,  
P.O.- Siddhi Ashram,  
Agartala, West Tripura, PIN-799003.

.....**Petitioner(s)**

**Versus**

**1. Union of India,**

To be represented by the Secretary, Ministry of Textile, Govt. of India, Udyog Bhawan, New Delhi.

**2. The Development Commissioner(Handicraft),**

O/o the Development Commissioner(Handicraft),  
West Block No.7, R.K. Puram,  
New Delhi- 10066.

**3. The Addl. Development Commissioner(H)(SB),**

O/o the Development Commissioner(Handicrafts),  
West Block No.VII, R.K. Puram, New Delhi.

**4. The Regional Director(H),**

(North East Regional Office)  
Govt. of India, Ministry of Textile,  
O/o the Development Commissioner(H),  
House fed Office Complex Central Block 2<sup>nd</sup> Floor,  
Guwahati-781006.

**5. The Asstt. Director(A & C),**

O/o the Development Commissioner(Handicrafts),  
House fed Office Complex, Central Block, 2<sup>nd</sup> Floor,  
Guwahati-781006.

.....**Respondent(s)**

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For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.  
Mr. K. Nath, Advocate.  
Mr. D. Paul, Advocate.

For the Respondent(s) : Mr. B. Majumder, Deputy, SGI.

Date of hearing : 19.03.2024.

Date of delivery of  
Judgment & Order : 21/03/2024

Whether fit for reporting : YES/NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD**  
**J U D G M E N T & O R D E R**

This present writ petition has been filed under Article 226 of the Constitution of India seeking the following reliefs:-

*"(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to release full and final payment of gratuity with interest to the Petitioner.*

*(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/ directions of like nature shall not be issued whereby directing the Respondents to release full and final Pension with commutation of pension to the Petitioner.*

*(iii) Make the rules absolute.*

*(iv) Call for records.*

*(v) Pass any further order/orders as this Hon'ble High Court considered fit and proper."*

2. The brief fact of this case is that the petitioner served under the Respondents and retired from service on superannuation w.e.f 30.04.2014. At the time of retirement, the

petitioner was holding the post of Investigator, being posted at the Office of the Regional Director, North Eastern Regional Officer, Office of the Development Commissioner, Handicrafts. Before he retired from service, the Petitioner was implicated in a criminal case under the provisions of the Prevention of Corruption Act, 1988, bearing No SPL(PCA) 16/2012, which is pending till date in the Court of learned Special Judge, West Tripura, Agartala, Court No 4.

3. On his retirement from service, the petitioner became entitled to a regular monthly pension under CCS (Pension) Rules, 1972. Similarly, the petitioner became entitled to full and final payment of gratuity and leave encashment benefit, but due to the pendency of the said criminal case, the petitioner was not allowed the benefit of full and final payment of gratuity, leave encashment, etc. Till date, regular monthly pension under CCS (Pension) Rules has not been sanctioned and released in favour of the Petitioner due to the pendency of the said criminal case.

4. The petitioner submitted representations to the Development Commissioner (Handicraft), for releasing his gratuity, commutation and leave encashment, and other admissible retiral benefits. But the Petitioner received no response from the respondents in respect to his aforesaid representations. Thereafter, the petitioner approached the Hon'ble High Court by filing a Writ

Petition vide W.P(C) No. 1317/2017. Vide order, dated, 19.07.2018, passed in W.P(C) No. 1317/2017, the Hon'ble High Court directed the Respondents to release the leave encashment benefit to the Petitioner within 2 months.

5. A criminal case under the Prevention of Corruption Act is pending before the learned Special Judge, West Tripura, Agartala, and Trial is going on. In the Criminal Trial charge the Petitioner has allegedly misappropriated fund of Rs 2,71,500/-.

6. Due to the inordinate delay in the criminal proceeding, the petitioner has not received the full and final pensionary benefits. As such, the present petitioner has filed this writ petition seeking necessary direction upon the respondents for releasing full and final payment of gratuity with interest to the petitioner and to release pension with commutation of pension to the petitioner.

7. Heard Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. K. Nath, learned counsel, and Mr. D. Paul, learned counsel appearing for the petitioner as well as Mr. B. Majumder, learned Deputy SGI appearing for the Union respondents.

8. Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. K. Nath, learned counsel, and Mr. D. Paul, learned counsel submits that the alleged misappropriated amount in terms of the

charge is Rs.2,71,500/-. Learned Sr. counsel further submits that mere filing of FIR or pending criminal case cannot withhold the pension of the petitioner as the same is not permissible under the law. Rule 9 of the CCS (Pension) Rules clearly states that pension or gratuity can only be withheld in full or in part if the person is found guilty of grave misconduct or negligence during the period of service. At the fag end of the argument, to support his case, learned Sr. counsel tried to rely upon the Judgment of the Hon'ble Supreme Court reported in **(2020) 4 SCC 346** titled as **Dr. Hira Lal vs. State of Bihar and ors.**

Stating thus, learned Sr. counsel appearing for the petitioner urged this Court to allow this writ petition.

9. On the other hand, Mr. B. Majumder, learned Deputy SGI, appearing for the respondents submits that the misappropriated amount according to their counter affidavit is Rs.4,50,000/-. Learned Deputy, SGI further submits that Rule 69(C) of the CCS(Pension) Rules, 1972 states that no gratuity shall be paid to the Government Servant until the conclusion of the Departmental or Judicial proceedings and issue of final order thereon. Learned Deputy SGI also submitted before this Court a letter dated 18.03.2024 issued by the Assistant Director(H), Handicraft, Service Centre Agartala wherein a detailed breakup of

the payment of bills to be given to the petitioner herein is given, wherein, for retirement gratuity the amount is Rs.3,42,160/-, for Commutation of Pension, the amount is Rs.5,01,867/- and for CGEGIS, the amount is Rs.40,738/-, so the total is Rs.8,84,765/-.

10. Heard both sides and perused the evidence on record.

11. To properly adjudicate the matter, let us produce Rules 9 and 69 of the CCS(Pension) Rules, 1972:-

*"9. Right of President to withhold or withdraw pension*

*[(1) The President reserves to himself the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement:*

*69. Provisional pension where departmental or judicial proceedings may be pending*

*(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.*

*(b) The provisional pension shall be authorized by the Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the Competent Authority.*

*(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon:*

*Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.*

*(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made."*

12. Here the allegation against the petitioner is that he has misappropriated public money and the said allegation is grave in nature and Rule 69(C) clearly states that no gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon. As such, this Court is of the opinion that in terms of the fact of the present case, Rule 9 of the CCS(Pension) Rules, 1972 is not applicable but Rule 69 of the CCS(Pension) Rules, 1972 is applicable.

13. In so far as the amount involved in misappropriation by the petitioners herein as per the Article of Charge is Rs.2,71,500/- and as a criminal case is pending before the Court below, this Court directs the respondents to withhold the subject amount as indicated above and to release the balance amount in favour of the petitioner as expeditiously as possible.

14. Once the criminal proceeding is concluded, it is upon the petitioner to represent the matter to the concerned authority. Thereafter, the concerned authorities after receipt of the same shall consider it in accordance with law.

15. With the above observation and direction this present writ petition stands disposed of. Stay if any stands vacated. Pending application(s), if any also stands closed.

The copy of this order be marked to RPAO Kolkata for compliance.

**JUDGE**

*suhanjit*

RAJKUMAR  
SUHANJIT  
SINGHA

Digitally signed by  
RAJKUMAR  
SUHANJIT SINGHA  
Date: 2024.03.22  
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