

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 709 of 2024

Mrs. Gouri Saha

---Petitioner(s)

Versus

The State of Tripura and 6 Ors.

---Respondent(s)

For Petitioner (s)	:	Mr. P. Roy Barman, Sr., Advocate. Mr. S. Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. D. Bhattacharjee, Sr. Advocate. Mr. M. Debbarma, Addl. GA.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

25.11.2024

Heard learned counsel for the parties.

[2] This is a petition under Article 226 of the Constitution of India for seeking the following relief(s):

- (i) Issue Rule upon the respondents to show cause as to why a Writ in the nature of Mandamus and/or other Direction or Directions and/or Order or Orders of like nature directing the respondents not to recover alleged wrongful/excess payment made to the petitioner during service period, as mentioned in the Communication dated 02.05.2022 of the Public Works Department (R&B), Government of Tripura.
- (ii) Issue Rule upon the respondents to show cause as to why a Writ in the nature of Mandamus and/or any other Direction or Directions and/or Order or Orders of like nature directing the respondents to consider the representation of the petitioner, dated 30.07.2024 to restore the last basic pay of the petitioner at Rs.57,300/- for fixing all pensionary benefits and to release the entitled gratuity with 9% interest for deferred payment.
- (iii) Upon hearing the parties, make the rules absolute.
- (iv) Call for records.
- (v) Pass any further order/orders as this Hon'ble High Court consider fit and proper.

[3] It is the case of the petitioner that the petitioner is a retiree Public Works Department (R&B), Government of Tripura. She entered in service in the post of LDC on 25-08-1990 and retired on superannuation from the same post on 31-12-2021. As in the entire period she got no promotion, got entitled CAS/ACPs thrice, as per Rules in force. Her Last Basic Pay on the day of retirement on superannuation was Rs. 57, 300/-. After completion of 10 years of continuous service in the scale of pay Rs. 3,300-7100/-, due to CAS-1, she moved to pay scale

of Rs. 4,000 -7,890/- as per TSCS (RP) Rules, 1999, but, did not get any financial benefit, since, at the relevant date, her basic pay in the scale of pay Rs. 3,300-7100/- and starting basic pay of allowed scale of pay due to CAS-I was same i.e. Rs. 4,000/-. Subsequently, in accordance Memorandum, dated 14-09-2009 of the Finance Department, Government of Tripura, her pay was fixed notionally w.e.f. 01-01-2006 allowing one increment. But, later on, vide another Memorandum, dated 16-01-2012, the Finance Department, Government of Tripura withdrawn the earlier Memorandum, dated 14-09-2009, and hence, after retirement, her basic pay has been refixed. It has been reduced from Rs. 57, 300/- to 53, 800/-. Gratuity also has been kept withheld to recover alleged excess/overdrawn amount. As, the petitioner did not made any misrepresentation and/or induced the respondents for alleged wrong fixation of pay, if any, and as it is impermissible in law to make recovery of alleged excess/overdrawn amount from her retirement benefit, she made representation. But, no result. Hence, the instant Writ Petition.

[4] It is seen from the record that Deputy Secretary, Public Works Department (R&B) by the communication dated 02.05.2022 addressed to the Senior Accounts Officer, O/o the Accountant General (A&E) a copy of which was also marked to the petitioner herein, has requested to review the case of the petitioner herein and take necessary action. The petitioner has submitted her representation dated 30.07.2024 before the respondents communicating the above decision dated 02.05.2022. A perusal of the record shows that the said representation is lying before the respondents and it has not been acted upon till date.

[5] In view of said submission, without expressing any opinion on the merits of the case, this present writ petition is disposed of directing the respondents to consider the case of the petitioner in the light of the representation dated

30.07.2024 in accordance with law within a period of three months from the date of receipt of copy of this order.

[6] With the above observation and direction, this present writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Dipak

