

**HIGH COURT OF TRIPURA
AGARTALA**

WA 182 of 2022

Sri Sekhar Bhowmik

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

WA 183 of 2022

Sri Bhaskar Bhowmik

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

WA 184 of 2022

Smt. Sabita Chanda

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

WA 208 of 2022

Sri Narayan Ch. Deb

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

WA 209 of 2022

Sri Pradip Kumar Chowdhury

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

WA 210 of 2022

Sri Biswanath Dey

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

WA 213 of 2022

Sri Sadhan Ch. Das

---Appellant(s)

Versus

The State of Tripura and Ors.

---Respondent(s)

For Appellant(s)	: Mr. P Roy Barman, Sr. Advocate. Mr. K. Nath, Advocate. Ms. A. Debbarma, Advocate.
For Respondent(s)	: Mr. K. De, Addl. GA. Mr. B. Majumder, Deputy SGI.
Date of hearing and date of judgment and order	: 27.02.2024
Whether fit for reporting	: No

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order (Oral)

(T.Amarnath Goud, J)

All these appeals have been filed under Article 226 of the Constitution of India read with Chapter VA Rule (2) of the Gauhati High Court Rules as applicable against the order dated 06.09.2022 passed by the Hon'ble Single Judge in WP(C) 106 of 2022 and a bunch of other writ petitions.

[2] All these appeals arise out of a common judgment. They have been heard together and disposed of vide common judgment dated 06.09.2022. For the sake of convenience let us consider the fact of WA 182 of 2022 i.e. the writ petitioner of WP(C) 116 of 2022.

[3] In the writ petition, the petitioner i.e. the appellant herein sought for necessary direction upon the respondents to cause full and final payment of gratuity to the Appellant reckoning Rs.10,00,000/- as the ceiling limit and by taking into account the last basic pay Dearness Allowance and the length of service of the appellant. The respondents have caused partial payment of gratuity to the appellant by arbitrarily determining Rs.4,00,000/- as the ceiling limit payable to the appellant. It is further contended by the counsel for the appellants that there should be parity so far the ceiling limit of Gratuity is concerned between Rule 9 of the Tripura State Civil Services (revised Pension) Rules, and Payment of Gratuity Act, 1972.

[4] The Hon'ble Single Judge after hearing both the parties, vide common judgment dated 06.09.2022 dismissed the said petition along with a bunch of similar

writ petitions. Against the said common judgment dated 06.09.2022, the petitioners therein have filed these present appeals seeking to set aside the impugned order and pass any other order/orders as this Court deems fit and proper.

[5] Heard Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. K. Nath, learned counsel appearing for the appellants as well as Mr. K. De, learned Addl. G.A. appearing for the State-respondent and Mr. B. Majumder, learned Deputy SGI appearing for the Union-respondent.

[6] Mr. P Roy Barman, learned senior counsel submits that the learned Single Judge fell in error in not considering that coordinate Bench has already held that in the matter of ceiling limit of Gratuity there should be parity in between Rule 9 of Tripura State Civil Services (Revised Pension) Rules and Payment of Gratuity Act, 1972. He further submits that the learned Single Judge did not consider that ceiling limit of gratuity payable to the State Government employees has been revised/enhanced by the State Government time to time to bring parity in between the payment of Gratuity Act, 1972 and Rule 9 of Tripura State Civil Services (Revised Pension) Rules.

[7] He further submits that the learned Single Judge also failed to consider that the judgment passed in WP(C) no.204 of 2020 is applicable to the appellant by which the state respondents were directed to consider the matter of bringing parity with the Central Act in respect of determining the ceiling limit of gratuity.

[8] Heard learned counsel appearing for the parties and perused the evidence on record.

[9] The learned Single Judge vide common judgment dated 06.09.2022 dismissed all the petitions in the following terms.

20. Moreso, the parameters considered for determining the maximum limit of gratuity for its employees is a policy matter of the government which dwelled upon many complex issues and the court in exercise of its power of judicial review under Article 226 of the Constitution of India should refrain from interfering with such policy decision of the government. Needless to say, it is always left open to the state government to revisit its policy. As a logical corollary, as on today, there cannot be any quarrel that Rule 8 of the Pension

Rules, 2009 would govern the petitioners of this batch of writ petitions being the employees of the state government in respect of payment of gratuity.

21. In view of the above discussions and for the reasons stated, this batch of writ petitions merit no consideration and accordingly dismissed. However, in the facts and circumstances, the parties are to bear their own costs. Pending application(s), if any, also stands disposed

[10] The counsel has drawn our attention to the order dated 27.01.2021 passed in WP(C) 204 of 2020 wherein the learned single judge has observed as follows:

The state government shall revisit Rule-9 of the Tripura State Civil Services (Revised Pension) Rules, 2017 as it appears emergent in view of the judgment of this court in Bhupati Debnath(supra) having regard particularly to para-11 of the said judgment and take the proper decision as regard enhancing maximum limit, as has been done by the central government vide their notification dated 29.03.2018. It is expected that the parity in payment of gratuity be maintained as has been earlier maintained by the state government in terms of the provisions of Section 4 (3) of the Payment of Gratuity Act, 1972. However, until such exercise is done, and which shall be done within a period of three months from the date when a copy of this order is made available to the respondents by the petitioner, gratuity of the petitioner be paid for the time being on the basis of the maximum limit of Rs.10,00,000/- within a period of six weeks with interest @ 7% from the day when that fell due. It fell due on the day after expiry of 30 days from the date of retirement. There is no dispute about the limit in view of Rule-9 of the Tripura State Civil Services (Revised Pension) Rules, 2017 which according to the respondents, governs the determination of the gratuity of the petitioner. The remainder of the gratuity be paid from the same date when the gratuity fell due i.e. after one month from the date of superannuation or from any other date as might be notified, with same rate of interest.

[11] In view of the above observation and without expressing any opinion on the merit of the case, this appeal stands disposed of with a liberty to the appellants to represent the matter before the respondents with all relevant documents, if so advised. On receipt of such representation, the respondents shall pass a cogent order and communicate the same to the appellants within a period of four months from the date of receipt of such representation from the end of the appellants. It is needless to mention that the respondents shall maintain the parity while considering the case of the appellants.

[12] As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

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