

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 147 of 2025

Smt. Sumitra Debbarma

---Petitioner(s)

Versus

The State of Tripura and 2 Ors.

---Respondent(s)

For Petitioner(s)	:	Mr. B. N. Majumder, Sr. Advocate. Mr. Elemborok Debbarma, Advocate.
For Respondent(s)	:	Mr. S. M. Chakraborty, Advocate General. Mr. P. Gautam, Sr. GA.

HON'BLE JUSTICE DR. T. AMARNATH GOUD

Order

20.06.2025

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):

- a) Issue Rule NISI calling upon the Respondents or each one of them to show cause as to why a Writ of Mandamus shall not be issued directing the Respondents to reconsider the Petitioner's case in light of Rule 88 of the CCS (Pension) Rules, 1972 and to pass a reasoned order addressing whether the conditions under Rule 48A of the said Rules can be relaxed;
- b) Issue Rule NISI calling upon the Respondents or each one of them to show cause as to why a Writ of Mandamus shall not be issued directing the Respondents to relax the conditions under Rule 48A(i) of the CCS (Pension) Rules, 1972 and round off the Petitioner's qualifying service to 20 years, thereby granting her pensionary benefits in accordance with law;
- c) Issue Rule NISI calling upon the Respondents or each one of them to show cause as to why a Writ of Certiorari shall not be issued to quash / set aside the impugned order dated 29.10.2024 passed by the Respondent No. 3.
- d) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice.

AND

As to why such other order/orders shall not be passed so as to give full relief(s) to the Petitioner and upon causes shown to make the rule absolute.

AND

In case the Respondents show cause or not, make the rule absolute in terms of prayer (a) (b) (c) & (d) as above.

[3] The case of the petitioner is that the petitioner, a Group D employee, Tripura Crime Branch appointed under the Die-in-Harness Scheme on 19.12.2000, applied for voluntary retirement on 04.06.2020 due to health issues before completing 20

years of qualifying service as mandated under Rule 48A of the CCS (Pension) Rules, 1972. The competent authority / Respondent No. 2 still accepted her application/prayer for voluntary retirement on 24.06.2020 and she was given the liberty to retire from service on voluntary retirement in the afternoon of 31.07.2020. But when the pension authorization process was going on, the O/o the Accountant General (A/E), Tripura, declined to authorize her pension as she had only completed 19 years, 7 months, and 12 days of qualifying service. Aggrieved, she filed W.P. (C) 813/2022, which directed the respondents to consider the petitioner's prayer, but they rejected it without explaining why her premature prayer for voluntary retirement was accepted. She again filed another writ petition through W.P. (C) 631/2023, but Court denied relief, leading her to file a writ appeal vide W.A. 49/2024. The Division Bench directed the respondents to consider whether Rule 48A of the CCS (Pension) Rules, 1972 could be relaxed under Rule 88 of the said Rules. In compliance, the petitioner submitted her representation on 08.07.2024, but the respondent No. 3, vide order dated 29.10.2024, rejected it without providing reasons for not invoking Rule 88 of the said Rules.

[4] Aggrieved by the respondent No. 3's failure to pass a reasoned order, the petitioner filed a Contempt Petition vide Cont. Case (C) 22/2025, but the Division Bench of this Court, vide order dated 04.03.2025, held that the merits of the reasoned order could not be examined under contempt jurisdiction and that the petitioner may seek an appropriate remedy through proper proceedings. In compliance with the order dated 04.03.2025 of the Division Bench, where the Court observed that if aggrieved, the Petitioner could seek an appropriate remedy, the petitioner is filing this present writ petition to challenge the respondents' failure to comply with the directions of this Court and their deliberate non-application of Rule 88 of the CCS (Pension) Rules, 1972. Hence this writ petition.

[5] The counsel for the petitioner submitted that under Rule 48A of the CCS (Pension) Rules, the required tenure for getting pensionary benefits is 20 years of qualifying service. In the event, if any person is falling short of any service period for claiming pensionary benefits, the Rule 88 of the CCS (Pension) Rules, comes to their rescue by way of power of relaxation. He further submitted that the petitioner is having 19 years, 7 months and 12 days of qualifying service and she is accordingly falling short of only two months for completing 20 years of qualifying service as mandated under Rule 48A of the CCS (Pension) Rules.

[6] For proper adjudication of the case in hand, let us produce Rule 48-A and Rule 88 of the CCS (Pension) Rules: -

“48-A. Retirement on completion of 20 years' qualifying service

(1) *At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the Appointing Authority, retire from service*

Provided that this sub-rule shall not apply to a Government servant, including scientist or technical expert who is-

(i) on assignments under the Indian Technical and Economic Co-operation (ITEC) Programme of the Ministry of External Affairs and other aid programmes.

(ii) posted abroad in foreign based offices of the Ministries/Departments,

(iii) on a specific contract assignment to a foreign Government,

unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the Appointing Authority:

88. Power to relax

Where any Ministry or Department of the Government is satisfied that the operation of any of these rules, causes undue hardship in any particular case, the Ministry or Department, as the case may be, may, by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Department of Personnel and Administrative Reforms.”

[7] It is further contended by the counsel for the petitioner that the impugned order dated 29.10.2024 reflects that the respondents have not considered the case of the

petitioner and no speaking order has been passed under Rule 88 of the CCS (Pension) Rules for relaxation.

[8] In course of his argument, learned counsel for the petitioner has also drawn the attention of this court to a notification dated 29.12.1983 issued by the Commissioner-cum-Secretary to the Government of Tripura where certain amendments have been carried out in the CCS (Pension) Rules.

[9] On the contrary, learned S.M. Chakraborty, learned Advocate General, has submitted before this Court that Tripura has its own Pension Rules, namely the Central Civil Services (Pension) Rules, 1972, which have been adopted by the State of Tripura. Under the said rules, as adopted in the State, there is no Rule 48A, as indicated by the counsel for the petitioner. According to him, the only relevant provision is Rule 48 of the CCS (Pension) Rules, 1972. As per Rule 48, the qualifying service required for voluntary retirement is 30 years, not 20 years as mandated under Rule 48A of the CCS (Pension) Rules. The learned Advocate General has further submitted that since the petitioner has not completed 30 years of qualifying service, her case cannot be considered, and he accordingly prayed for dismissal of the petition as it does not fall within the ambit of the rules adopted in Tripura.

[10] For proper adjudication of the case in hand, let us produce Rule 48 of the CCS (Pension) Rules, 1972 as adopted in the State of Tripura: -

48. Retirement on completion of 30 years' qualifying service.

(1) At any time after a Government servant has completed 30 years' qualifying service-

(a) he may retire from service, or

(b) he may be required by the appointing authority to retire in the public interest

and in the case of such retirement the Government servant shall be entitled to a retiring pension:

Provided that-

(a) a Government servant shall give a notice in writing to the appointing authority at least three months before the date on which he wishes to retire; and

(b) the appointing authority may also give a notice in writing to a Government servant at least three months before the date on which he is required to retire in the public interest or three months pay and allowances in lieu of such notice.

[11] Heard both sides.

[12] As seen from the impugned order, the respondents have not passed any speaking order dealing with Rule 48A and Rule 88 of CCS (Pension) Rules and also regarding the Rule 48 of CCS (Pension) Rules, 1972. In view of the same, it becomes immense necessary that a reasoned order be passed by the respondents enabling the petitioner to avail the remedies under law, if so advised in future.

[13] In view of the above, without expression any opinion on the merit of the case, the instant writ petition is disposed of setting aside the impugned order dated 29.10.2024 which is an unreasoned order. This court is also remanding back the matter to the respondents to pass a speaking order on the observation made above.

[14] The petitioner is also directed to approach the respondents with a copy of this order along with all other relevant documents supporting her case. On receipt of such order, the respondents shall pass a speaking order as expeditiously as possible, within a period of two months from the date of receipt copy of this order.

[15] 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

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