

**HIGH COURT OF TRIPURA
AGARTALA
WA NO.86 OF 2024**

The State of Tripura and ors.

..... **Appellant(s)**

Versus

Sri Phani Bhusan Roy

.....**Respondent(s)**
(petitioner in writ petition)

For the Appellant(s) : Mr. Kohinoor N. Bhattacharjee, G.A.
Mr. D. Sharma, Addl. G.A.

For the Respondent(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. K. Nath, Advocate.
Mr. D. Paul, Advocate.
Ms. S. Debbarman, Advocate.

Date of hearing and delivery of
Judgment & Order : 23.04.2025.

Whether fit for reporting : YES/NO.

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

(T. AMARNATH GOUD,J)

Heard Mr. D. Sharma, learned Addl. G.A.,
appearing for the appellant-State, as well as Mr. P. Roy Barman,
learned Sr. Counsel, assisted by Ms. S. Debbarman, learned
counsel, appearing for the respondent.

2. The brief facts of this case are that the writ petitioner herein i.e. writ petitioner of WP(C) No. 306 of 2021 and ors initially approached this Court seeking directions for the full and final payment of gratuity and leave encashment benefits. The petitioner was appointed as a casual worker under the respondents on 16-10-1987 and was regularized in the post of Orchard Worker on 03-01-2013. He retired on 31-01-2018 upon attaining the age of superannuation. His total qualifying service was considered to be 18 years, including 50% of his casual service. At the time of retirement, his last basic pay was Rs.15,830/-, making him entitled for amount of Rs.1,64,388/-. However, he was paid only Rs.40,408/- on 05-06-2018, and no payment was made towards leave encashment for 300 days of earned leave. Respondent No. 3, the Managing Director of Tripura Horticulture Corporation Limited (*in short 'THCL'*), filed a counter-affidavit claiming inability to pay due to financial constraints and stated that THCL employees were not entitled to leave encashment. However, the Hon'ble High Court allowed the writ petition.

3. Subsequently, the State filed a review petition referring to the order dated 24.04.2023 passed by this Court in Review Pet. No. 04 of 2022 (State of Tripura & Ors. vs. Shri Bikash Roy) which arose from WP(C) No.617 of 2021 dated 02.12.2021

and had similar operative portions. The review petitioners sought clarification on the impugned Judgment, but the Court found no apparent error on record and refused to review the order. The review petition was disposed of following the same lines as the earlier Review Pet. No.04 of 2022. Accordingly, the present writ appeal has been filed seeking to set aside the order dated 20.01.2022 passed by the Hon'ble Single Judge in WP(C) No. 306 of 2021 and also the order dated 19.07.2023 passed by the Hon'ble Single Judge in Rev. Pet. No.35 of 2023.

4. Mr. Sharma, learned Addl. G.A., appearing on behalf of the appellant-State, submits that the appellant is an employee of the 'THCL', which is governed by the Companies Act, and therefore the Payment of Gratuity Act, 1972 would not be applicable.

To support his argument, the learned counsel relied to the order of the Hon'ble Supreme Court passed in ***Special Leave Petition (Civil) Diary No. 39779/2024*** titled ***Agartala Municipal Corporation and Anr. vs. Ratna Roy and Ors.***, which relates to the demand for gratuity.

5. On the other hand, Mr. P. Roy Barman, learned Sr. Counsel, assisted by Ms. S. Debbarman, learned

counsel, submits that the present case pertains to leave encashment, and the learned Single Judge had directed payment of leave encashment to the writ petitioner.

In this case, the petitioner was a regular employee and had unused earned leave. The facts of the case are covered by the judgment of this Hon'ble Court passed on 09.03.2024 in WP(C) No. 772 of 2024 and other connected matters.

6. Heard and perused the evidence on record.

7. Learned Senior Counsel appearing for the respondent explicitly states that the present matter relates to leave encashment benefits, and the appellant herein is a regular employee of 'THCL'. The order of the Hon'ble Supreme Court, as cited by the learned Addl. G.A., pertains to the payment of gratuity and is not relevant to the fact of the present case. 'THCL' is a 'Corporation', and this Court, in its Judgment passed in similarly situated case i.e., in WP(C) No. 489 of 2023 dated 26.04.2024 relating to employees of the Tripura Road Transport Corporation (TRTC), which is also a 'Corporation', and in its the Judgment dated 09.04.2025 as cited supra by the learned Sr. Counsel appearing for the respondent-writ petitioner in WP(C) No. 772 of 2024 and others, relating to leave encashment benefits for 'THCL' employees,

observed that for any issue between the '*Corporation*' and the State, the employees of the '*Corporation*' cannot be deprived of their legitimate rights.

8. This subject matter is covered by the Order of this Court in WP(C) No.489 of 2023 dated 26.04.2024. Accordingly, following the principle laid in the above '*TRTC*' case to pay leave encashment to employees despite there being no rule, this Court directs to pay the leave encashment in the present appeal.

9. As such, in view of the above-cited Judgments of this Court, the present writ appeal stands dismissed, confirming the impugned Judgment and Order as passed by the learned Single Judge. As a sequel, the stay, if any, stands vacated. Pending application(s), if any, also stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

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