

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WA.No.123 of 2024

The State of Tripura & Others

.....Appellants

_V_E_R_S_U_S_

Sri Ratan Kumar Das

.....Respondent

For Appellant(s)	:	Mr. M. Debbarma, Addl. G.A.
For Respondent(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. S. Bhattacharjee, Advocate.
Date of hearing and delivery of judgment and order	:	20.08.2025
Whether fit for reporting	:	YES

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

[Dr. T. Amarnath Goud, J]

Heard.

[2] The present writ appeal has been filed under Chapter-VIII, Rule-B (A) of the High Court of Tripura Rules, 2023 against the impugned judgment and order dated 03.07.2024 passed in WP(C) No.745 of 2023 by the learned Single Judge.

[3] The facts in brief are that the matter relates to extension of benefits under TSCS (First Amendment) Rules, 2018 to the petitioner-respondent herein, who is a retired employee of DRDA agency which was ran under central scheme, now discontinued the scheme by the Government of India. The petitioner/respondent herein claims for benefits of revised pay scale, gratuity, leave encashment etc. to him by way of adopting the TSCS (First Amendment) Rules, 2018 by the respondents, the appellant herein. The respondent State denied his claim as the petitioner was employed under a centrally ran scheme DRDA who was not an employee under the State Government and the revision of pay as adopted by the State for its employees which do not applied automatically upon the employees under DRDA like the petitioner, without adopting the State revised pay by the DRDA authority. But the learned Single Judge allowed the writ petition and directed to re-determine the pay scale of the petitioner in terms of the TSCS (First Amendment) Rules, 2018 and to pay consequential benefits.

[4] Having heard the learned counsel appearing for the parties and gone through the material evidence on records, the learned Single Judge has observed as under:

“[21] In the result, the writ petition is allowed and disposed of in the following terms:

The respondents shall re-determine the post retirement benefits of the petitioner i.e the Leave Encashment and Gratuity after fixation of his basic pay in terms of Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018 in the light of the discussions made in Para-11 above. The Gratuity payable to the petitioner will be computed after taking into consideration the revised ceiling limit of Rs.20,00,000/- as notified by the Government of India vide notification dated 29.03.2018 and payment of arrears will be made accordingly. The respondents will also pay interest @7% per annum on the rest amount of Leave Encashment and Gratuity, computing from the date after the expiry of one month of the date of retirement of the petitioner till payment is made.

The respondents will also ensure payment of benefits under the GSLI Scheme to the petitioner as indicated above accordingly at the earliest after taking up the matter with LIC, if the same is not already paid. All the above said exercises should be done within 4[four] months from the receipt of the copy of this Judgment and order.”

[5] Being aggrieved, the State-respondents, the appellants herein, have filed this intra court appeal.

[6] Mr. M. Debbarma, learned Addl. G.A. appearing for the appellants has submitted that the learned Single Judge has failed to appreciate the fact that the petitioner-respondent herein, was an employee under the DRDA agency which is a centrally sponsored scheme ran under the Central Government and the State share is only 10%. Further, the scheme has been discontinued by the central government across the country with effect from 01.04.2022 and thereafter, no funds has been released by the central government and also since then there is no new engagement in the agency. In 2022, Ministry of RD and Panchayatiraj, Govt. of India has been requested by the State Government to provide fund at least to release one time granting fund for DRDA staffs as there are as many as 72 DRDA staffs working in 8 districts, out of which 47 regular staffs (Group-A-15, Group-C-21, Group-D-11) and 25 DRW/PTW/Contractual workers as on February, 2022. But the central government informed about their inability to release one time grant of fund for DRDA staffs and thereby, the DRDA agency could not be adopted the revised pay as per the Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018.

[7] Further, since after discontinuation of DRDA Administration Scheme w.e.f. 1st April, 2022, in spite of financial crisis of the State, all DRDA staffs have been deputed to Tripura Rural Livelihood Mission (TRLM) by the State and extended their service in time to time with certain terms and conditions. The State is facing lots of financial hardship in managing their monthly pay and salaries and therefore, the State is not in a position to bear extra financial burden unless the central government is not extending their financial support in this particular matter.

[8] It has been further contended that the learned Single Judge has also failed to segregate the status of the service of the petitioner. The service of the petitioner is under the control of the DRDA agency, not with the State Department. The service status of the petitioner is not at par status of the employees under State Government. DRDA staffs like the petitioner has no right to claim service benefits directly from the State Government until and unless DRDA agency has absorbed or adopted the State policy including the revision of pay scales announced in time to time by the State Government. Time to time decision of the State Government for revision of pay and other benefits for the State employees could not be applied automatically to the employees working under the DRDA agency. The State revised pay may be applied if the DRDA agency adopted the revised pay scales and other benefits subject to their available of funds. But in the instant case, DRDA agency has not adopted the Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018 due to non-available of funds and therefore, there is no question arises for applying the benefits under the Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018 to the staffs under DRDA agency.

[9] Admittedly, the State Finance Department has agreed initially with the proposal of the State RD Department towards implementation of the TSCE (Revised Pay) (1st Amendment) Rules, 2018 with giving effect from 01.10.2018 notionally and actual benefits to be given w.e.f. 01.04.2020 subject to flow of fund vide communication letter dated 05.03.2020. But in spite of increasing flow of fund from the central government, the scheme itself is discontinued by the central government. Having been such situation neither the State RD Department nor the DRDA agency has in any position to continue the decision taken earlier to give benefits under TSCE (Revised Pay) (1st Amendment) Rules, 2018 and thereby, there has no option except to stop earlier decision for adoption of TSCE (Revised

Pay) 1st Amendment Rules, 2018 by the appellant's side. However, the petitioner has been paid gratuity, leave encashment as per Revised Pension Rules of 2017.

[10] The learned Single Judge has also failed to appreciate that once an employee taken the benefits of pay scales under the TSCS (RP) Rules, 2017, i.e., the State pay rules as adopted and/or its First Amendment Rules, 2018, as the case may be, he, on retirement, must not receive the pension and other retiral benefits as per Rules or Act other than the State Pension Rules i.e., TSCS (Revised Pension) Rules, 2017 or its First Amendment Rules, 2018 if so adopted. But he cannot claim to receive the amount of gratuity under different rules or Payment of Gratuity Act, 1972.

[11] The petitioner was not on monthly wages during his service/employment. He was getting pay and salary. The provision of Payment of Gratuity Act, 1972 was not applicable to the employees of DRDA in Tripura. In fact, no other employee of DRDA has also been given such benefit under the payment of Gratuity Act, 1972.

[12] The learned Single Judge has also failed to appreciate that the State Government in exercise of power under Article-309 of the Constitution framed its own pay and pension rules from time to time in partial modification of the CCS (Pension) Rules, 1972 as adopted in the State, for its own employees. Even the State Government employees at present are paid gratuity amount subject to maximum ceiling limit of Rs.10 lakhs. Such revised pay scales, pension rules are adopted by different Organizations/Boards/Agency /Corporations etc.

[13] It has been further contended that the petitioner-respondent was not eligible for revision of pay as per Revised Pay-1st Amendment Rules of 2018, in as much as, the direction of the Finance Department was to calculate the benefit notionally from 01.10.2018 and the actual benefit was to be given from 01.04.2020 subject to availability of fund and before the said date, the petitioner went on superannuation. According to them, the amount of gratuity was paid to the petitioner within 30 days from the date of his retirement as per Tripura Civil Services ROP, 2018.

[14] Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioner has drawn attention of

this Court to the letter dated 05.03.2020 of the Director (Projects) and submitted that as per the said letter itself, the petitioner was entitled to the benefits under said Revised Pay-1st Amendment Rules of 2018 which was illegally denied to the petitioner. To substantiate the claims, learned senior counsel further referred another notification dated 06.11.2018 of the Finance Department containing Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018 whereby old Rule-15 was substituted with the following words:

“Notwithstanding anything contained elsewhere in these Rules, or in any other Rules for the time being in force, the benefit of revision of pay for the month of October, 2018 payable in November 2018 and onwards shall be provided in cash. The Government employees, who had died/retired/ superannuated on or after the 1st day of October, 2018 and before publication of these Rules in the Official Gazette, shall be paid arrear pay and allowances for the period from the 1st day of October, 2018 upto the date of his death/retirement/superannuation in cash.”

[15] According to learned counsel, gratuity should be paid taking into consideration the upper ceiling limit as determined by Central Government in terms of Payment of Gratuity Act, 1972. It has been contended that the petitioner-respondent retired from service w.e.f. 31.12.2019 as such he is governed by the notification dated 29.03.2018, whereby, the amount of gratuity payable to an employee has been enhanced from Rs.10,00,000/- to 20,00,000/-. Since the petitioner has retired in the year 2019, he is governed by the notification dated 29.03.2018 published in the Gazette of India, instead of the notification dated 11.07.2017.

[16] The Govt. of India by Notification, dated, 29.03.2018, published in the Gazette of India, dated, 29.03.2018, notified, that, the amount of Gratuity payable to an employee under the Act shall not exceed Rs 20,00,000/-. But the respondents, the appellants herein, in calculating the amount of Gratuity which became payable to of the petitioner on his retirement from service did not take into account the enhanced ceiling limit of Rs 20,00,000/- which came in force w.e.f. 29.03.2018, instead of that, the respondents have calculated the Gratuity as per ceiling limit of Rs. 10,00,000/- which was earlier to the amendment of Sec 14(3) of the Act.

[17] In terms of the amendment of the Payment of Gratuity Act raising the ceiling limit to Rs 20 Lakhs w.e.f. 29.03.2018, the petitioner became entitled to

gratuity at the enhanced rate i.e., beyond the earlier ceiling limit of Rs 10,00,000/-. But the respondents have caused payment of Gratuity to the petitioner in terms of the ceiling limit which was prior to amendment of the Payment of Gratuity Act vide the Payment of Gratuity (Amendment) Act, 2018, w.e.f., 29.03.2018. Only partial payment of gratuity has been caused to the petitioner. After retirement from service the petitioner became entitled to full and final payment of gratuity within 30 days in terms of section 7(3) of the Payment of Gratuity Act, 1972. The Payment of Gratuity Act is applicable to the petitioner and other employees of the DRDA.

[18] Vide letter, dated, 25.08.2021, issued by the Director (Projects), SLMC, RD, Govt. of Tripura, it has been informed to the Project Director, District Rural Development Agency, Gomati, Udaipur, that, RD Department has issued an Order for revision of pay under Tripura State pay Matrix-2018 for employees and workers of DRDA, in which the revision may be considered notionally and actual benefit may be given from 01.04.2020 subject to availability of fund. Stating so, the claim of the petitioner for any financial benefit has been rejected on the ground that, he has retired from service on 31.12.2019, and as such he is not entitled to such financial benefit.

[19] By notification, dated, 06.11.2018, issued by the Secretary to the Govt. of Tripura, Department of Finance, pay of an existing employee under Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018, has been re-fixed and the same shall be calculated by dividing the existing basic pay by 2.25 and then multiplying the resultant value by applicable multiplication factor at the particular level under Tripura State Pay Matrix 2018 and the figure so arrived at will be located in that appropriate level of the Pay Matrix and if such figure corresponds to any identical value in any Cell in the applicable level of the pay matrix, the same shall be the pay, and if no such Cell is available in the applicable level, the pay shall be fixed at the immediate next higher Cell in that applicable level of the pay matrix.

[20] Mr. Roy Barman, learned senior counsel has further argued that the respondents have failed to take into consideration the revised pay fixation as per Tripura State Civil Services (Revised Pay) (1st amendment) Rules, 2018 and thereafter, the petitioners' gratuity and other pensionary benefits ought to have been

calculated as per the revised pay rules. The respondents, the appellants herein have failed to cause full and final payment of gratuity to the petitioner within the stipulated period. The respondents are liable to pay interest @9% per annum on the balance amount of gratuity. The petitioner is entitled to gratuity at the enhanced rate i.e. Rs.20,00,000/- upper limit.

[21] In this regard the petitioner submitted representation, dated, 18.04.2022, to the respondents, for fixation of initial pay as per RoP- 2018. In the said representation, the petitioner have prayed for benefit of RoP-2018 like other employees of DRDA, but the prayer of the petitioner has been rejected on the ground that he has retired from service w.e.f. 31.12.2019. The petitioner has further submitted, that, there will be an enhancement in his gratuity and leave salary and thus the petitioner has requested to issue order to prepare fixation of pay as per RoP-2018. It has been also submitted that DRDA(South) has considered the fixation of pay as per RoP-2018 with full arrear pay w.e.f. 01.10.2018 in respect of their employees and thus similar procedure may be adopted for the employees of DRDA. Pursuant to the retirement of the petitioner, he is entitled to get full and final payment of gratuity and Leave Encashment as per RoP-2018 along with interest.

[22] It is seen from the observation made by the learned Single Judge that Tripura State Revised Pay Rules, 2017 was brought into force w.e.f. 01.04.2017 and the said First Amendment thereof was made effective from 01.10.2018. It is evident from the letter dated 05.03.2020 of the Director (Projects), State Level Monitoring Cell of SGSY, Rural Development Department that the Finance Department concurred with the proposal of the department towards implementation of revised pay scale in terms of said Revised Pay – 1st Amendment Rules of 2018 in respect of staff and workers under DRDA subject to the condition that revision may be considered w.e.f. 01.10.2018 notionally and actual benefits may be given from 01.04.2020. The arrears may be paid if fund is found sufficient.

[23] Therefore, there is no doubt that the employees of the DRDA were entitled to get revised pay scale in terms of said Revised Pay-1st Amendment Rules of 2018. Only a condition was imposed that the actual benefit would be paid from 01.04.2020 but fixation of pay should notionally be done w.e.f. 01.10.2018. The said decision does not cover the situation where an employee goes on

superannuation before 01.04.2020. Such imposition of condition of giving actual financial benefits from 01.04.2020 on its plain reading creates the impression that it was meant for the employee who are in service on said date 01.04.2020. But said decision of Finance Department nowhere creates any bar in computing the post retirement benefits of an employee based on said Revised Pay-1st Amendment Rules of 2018, who went on retirement in between the period 01.10.2018 to 01.04.2020. At best, fixation of pay of the concerned employee may be done w.e.f. 01.10.2018 notionally till the date of his retirement based on which his post retirement benefits may be computed and paid to him. Therefore, the decision of the respondents for not giving the benefits of aid 1st Amendment Rules of 2018 to the petitioner on his retirement was arbitrary and illegal. His pay could be fixed notionally w.e.f. 01.10.2018 and his post retirement benefits, as admissible, ought to have been provided as per the said Amendment Rules of 2018 with effect from the date of his retirement. The letter dated 11.12.2020 of Project Director, DRDA, Gomati District, Udaipur shows that the Gratuity and the Leave Encashment benefits were released in favour of the petitioner as per Tripura Pay Matrix, 2017, which was, therefore, not in accordance with the said rules.

[24] Furthermore, the said issue was also decided by a Division Bench of this Court (comprising of S. Talapatra, J and S.G. Chattopadhyay, J in an intra-Court appeal in W.A. No.185 of 2020) and held that all the corporations and other establishments under the State Government shall come within the purview of Payment of Gratuity Act, 1972 as amended time to time by the Central Government. The relevant part of the said judgment may be reproduced herein-below:

“Admittedly, the writ petitioner is not an employee of the Central Government or State Government but of a local body. As such the said exception as carved out while defining ‘employee’ cannot authorise Agartala Municipal Corporation (the appellant) to make their own rules which is in contrast to the provisions of Central Statute namely the Payment of Gratuity Act, 1972 inasmuch as the Central Government has notified that local bodies having employees more than ten would be covered by the provisions of Payment of Gratuity Act, 1972.”

[25] In that view of the matter, this Court having observed that similarly placed employees are extended benefit and there cannot be discrimination. For ready reference, the observations made by the learned Single Judge was that :

“the respondents shall re-determine the post retirement benefits of the petitioner i.e the Leave Encashment and Gratuity after fixation of his basic pay in terms of Tripura State Civil Services (Revised Pay) (1st Amendment) Rules, 2018 in the light of the discussions made in Para-11 above. The Gratuity payable to the petitioner will be computed after taking into consideration the revised ceiling limit of Rs.20,00,000/- as notified by the Government of India vide notification dated 29.03.2018 and payment of arrears will be made accordingly. The respondents will also pay interest @7% per annum on the rest amount of Leave Encashment and Gratuity, computing from the date after the expiry of one month of the date of retirement of the petitioner till payment is made. The respondents will also ensure payment of benefits under the GSLI Scheme to the petitioner as indicated above accordingly at the earliest after taking up the matter with LIC, if the same is not already paid. All the above said exercises should be done within 4[four] months from the receipt of the copy of this Judgment and order.”

[26] Thus, the findings arrived at by the learned Single Judge which is directory in nature and the respondents need to take a decision in terms of the order and the said order passed needs no interference. Thus, the present writ appeal is liable to be dismissed and the same is accordingly dismissed.

[27] As a sequel, miscellaneous application, pending if any, shall stand closed

B. PALIT, J

DR. T. AMARNATH GOUD, J

A. Ghosh

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