

**HIGH COURT OF TRIPURA
AGARTALA**

**W.A.No.61 of 2022
W.A.No.90 of 2022
W.A.No.92 of 2022**

W.A. No. 61 of 2022

1. The State of Tripura,
represented by The Chief Secretary to the Government of Tripura,
having office at New Secretariat, PO and PS-New Capital Complex,
Sub-Division Agartala, District West Tripura, PIN 799010

2. The Principal Secretary,
to the Government of Tripura, Finance Department,
having office at New Secretariat PO and PS New Capital Complex,
Sub Division Agartala, District West Tripura, PIN 799010

.....Appellant(s)

Versus

1. Sri Tarun Kumar Sinha,
son of Lt. Madhu Lal Sinha,
resident of Dhaleswar, Assam-Agartala Road,
P.O. Dhaleswar, Agartala, Dist.- West Tripura

.....Respondent(s)

.....(Petitioner in writ petition)

2. High Court of Tripura,
represented by Registrar General,
having his official address at Hon'ble High Court Gurkhabasti,
P.O. Secretariat of Tripura, Capital Complex,
P.S- New Capital Complex, Agartala, Dist.- West Tripura

.....Proforma Respondent(s)

W.A.No. 90 of 2022

1. The State of Tripura,
represented by The Chief Secretary to the Government of Tripura,
having office at New Secretariat PO and PS-New Capital Complex,
Sub-Division Agartala, District West Tripura, PIN 799010

2. The Principal Secretary,
to the Government of Tripura, Finance Department,
having office at New Secretariat, PO and PS New Capital Complex,
Sub Division Agartala, District West Tripura, PIN 799010

3. The Secretary,
to the Government of Tripura,
Law Department, New Secretariat, P.O. New Capital Complex,
Agartala, District-West Tripura

.....Appellant(s)

Versus

1. Sri Mihir Singha Roy,
son of Lt. Sudhir Singha Roy,
Resident of Badharghat, Milan Chakra,
P.O and P.S- A.D. Nagar, Agartala,
Dist.- West Tripura, Pin-799003
2. Sri Haradhan Chakraborty,
S/o-Lt. Makhan Chakraborty,
Fulkumari, Bandowar, Dist- Gomati Tripura,
Resident of 2 No., P.O and P.S-R.K. Pur, Dist.- Gomati Tripura
3. Smt. Manju Rani Laskar,
W/o- Lt. Karnajit Laskar,
R/o- Dhaliyai, P.O and P.S- Sonamura,
Dist- Sepahijala, Tripura
4. Sri Subhas Chandra Chowdhury,
S/o- Lt. Gopal Chandra Chowdhury,
R/o- Jogesh Road, Near Karaibari J.B. School,
P.O- Majlispur, West Tripura
5. Sri Amar Chandra Sen,
S/o-Lt. Satish Chandra Sen,
R/o- Gangail Road, Sukantapalli, Gandhighaat,
P.O- Agartala, Dist- West Tripura.
6. Sri Nanda Lal Bhowmik,
S/o- Lt. Jadu Lal Bhowmik,
resident Majlispur, P.S- Ranirbazar, Tripura
7. Sri Mrinal Kanti Chakraborty
S/o- Lt. Narayan, R/o- Banamalipur,
West side of Agartala, Dist- West Tripura
8. Sri Shanti Chakraborty
S/o- Lt. Braja Chakraborty,
R/o-Dhaleswar, North A.A. Road,
Dhaleswar, Agartala, West Tripura

.....Respondent(s)
.....(Petitioner in writ petition)

9. High Court of Tripura,
represented by Registrar General having his official address
at Hon'ble High Court Gurkhabasti,
P.O- Secretariat of Tripura, Capital Complex,
P.S- New Capital Complex, Agartala, Dist- West Tripura
10. The District and Sessions Judge,
West Tripura District, Agartala
11. The District and Sessions Judge,
North Tripura District, Dharmanagar
12. The District and Sessions Judge,
Unakoti District, Kailashahar
13. The District Sessions,
Gomati District, Udaipur
14. The District Sessions,
South District
15. The District Session,
Dhalai District, Ambassa

16. The District Sessions,
Sepahijala District, Sonamura
17. The District Sessions
Khowai District, Khowai

.....Proforma Respondent(s)

W.A.No.92 of 2022

1. The State of Tripura and Others,
represented by the Chief Secretary to the Government of Tripura,
having office at New Secretariat,
P.O. and P.S-New Capital Complex,
Sub-Division- Agartala, District West Tripura, PIN 799010
2. The Principal Secretary
to the Government of Tripura, Finance Department,
having office at New Secretariat,
P.O and P.S. New Capital Complex,
Sub-Division- Agartala, District-West Tripura, PIN- 799010
3. The Secretary,
to the Government of Tripura, Law Department,
New Secretariat, P.O- New Capital Complex,
Agartala, Dist-West Tripura

.....Appellant(s)

Versus

1. Sri Arun Kumar Singha,
S/o. Lt. Madhu Mangal Singha,
resident of South Dhaleswar, P.O- Agartala College,
Dist- West Tripura, Pin- 799004
2. Brajendra Ch. Das,
S/o-Lt. Gour Chand Das,
resident of Harer Khola, P.O- Kamalpur,
Dist- Dhalai, Tripura Pin-799285
3. Sri Shyamal Kanti Acharjee,
S/o-Lt. Gobinda Ch. Acharjee,
R/o.-Jogatpur (Near Agragati Sangha), P.O- Abhoynagar,
Agartala, Dist. West Tripura
4. Smt. Sikta Roy
D/o- Lt. Prafulla Kumar Roy,
R/o- East Bank of Jagannath Didhi,
P.O. and P.S- R. K. Pur, Dist. Gomati Tripura

.....Respondent(s)

.....(Petitioner in writ petition)

5. High Court of Tripura,
represented by Registrar General,
having his official address at Hon'ble High Court Gurkhabasti,
P.O- Secretariat of Tripura, Capital Complex,
P.S- New Capital Complex, Agartala, Dist- West Tripura
6. The District and Sessions Judge,
West Tripura District, Agartala
7. The District and Sessions Judge,

North Tripura District, Dharmanagar
8. The District and Sessions Judge,
Unakoti District, Kailashahar
9. The District Sessions,
Gomati District, Udaipur
10. The District Sessions,
South District
11. The District Sessions,
Dhalai District, Ambassa
12. The District Sessions,
Sepahijala District, Sonamura
13. The District Sessions,
Khowai District, Khowai
14. The Account General (Audit),
State Tripura, Kunjaban Agartala,
Dist-West Tripura, Pin-799010

.....Proforma Respondent(s)

For Appellant(s)	: Mr. Saktimoy Chakraborti, Advocate General. Mr. Kohinoor N Bhattacharya, G.A. Mr. Dipankar Sharma, Addl. G.A.
For Respondent(s)	: Mr. B.N. Majumder, Sr. Advocate. Mr. Bidyut Majumder, Deputy SGI Mr. Pradyumna Gautam, Sr. G.A. Mrs. Sujata Deb (Gupta), Advocate. Mr. D.J. Saha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

15/01/2026

Common issue arises for consideration in all these Writ Appeals and so they are being disposed of by this common order.

2. We shall deal with the facts in Writ Appeal No.61/2022 for the sake of reference.
3. The respective respondents in these appeals are employees of the District Judiciary.
4. The respondent in the Writ Appeal No.61/2022 as well as the respondent in the other appeals sought payment of gratuity of Rs.20,00,000/-

from the appellants. They placed reliance on a judgment rendered by another Learned Single Judge in WP(C)No.1054/2019 on 13.02.2020 (*Sri Bhupati Debnath versus The State of Tripura and Others*) where the petitioners were employed under the Tripura Handloom and Handicrafts Development Corporation Ltd.

5. The respondents are undoubtedly governed by the Tripura District Court Ministerial Establishment (Recruitment and Conditions of Service) Rules, 2014. Rule 11 of the said Rules states that in all matters like age of retirement, pension, death-cum-retirement gratuity etc., the members of the District Courts' Ministerial Establishment shall be governed by the Rules as are applicable to persons holding equivalent posts under the State Government.

6. The persons holding equivalent posts under the said Government are governed by the Tripura State Civil Services (Revised Pension) Rules, 2009 which in Rule 8 initially prescribed a death cum retirement gratuity of Rs.4,00,000/- on the superannuation /retirement w.e.f. 01.01.2009.

7. This was revised by the Tripura State Civil Services (Revised Pension) Rules, 2017 w.e.f. 01.04.2017 from Rs.4,00,000/- to Rs.10,00,000/-.

8. The claim of Rs.20,00,000/- being made by the respondents is based on Section 4(3) of the Payment of Gratuity Act, 1972 under which the Central Government had vide S.O.1420 (E) dt. 29.03.2018 enhanced the gratuity of employees covered by the said statute to Rs.20,00,000/-.

9. The Learned Advocate General contends that under Section 2(e) of the said statute, employees of State Government are exempted and the provisions of the said Act cannot apply to State Government employees.

10. The said provisions reads as under :

“[2(e) “employee” means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are

express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules provision for payment of gratuity;]"

A reading of the above provisions indicates that in the definition of the term “employee” under the said Act, persons who hold posts under the Central Government or State Government and are governed by any other Act or by any rules providing for payment of gratuity, are not included.

11. Therefore, since the District Court employees are governed by the State Government Rules i.e. Tripura State Civil Services (Revised Pension) Rules, 2017, the respondents cannot claim the gratuity of Rs.20,00,000/- prescribed under the Payment of Gratuity Act, 1972.

12. Counsel for the respondents however relies upon the judgment in (*Sri Bhupati Debnath versus The State of Tripura*) to contend that the revised ceiling of Rs.20,00,000/- for Payment of Gratuity Act, 1972 would apply to even establishments controlled by the State or Central Government.

13. We do not agree with the said submission because the said case dealt with an employee of Tripura Handloom and Handicrafts Development Corporation Ltd. which is a Government company controlled by the State of Tripura.

14. The observation in para-11 of the judgment of the Learned Single Judge dt. 13.02.2020 in WP(C)No.1054 of 2019 that the revised ceiling of Rs.20,00,000/- would apply to all establishments irrespective of whether they are controlled or governed by the State or the Central Government as the appropriate Government, cannot be understood to mean that it would apply to State Government employees/ employees of District Judiciary.

15. In our considered opinion, the said sentence of the judgment indicates that a Corporation controlled by State or Central Government will also need to pay the revised gratuity, but the said principle cannot be extended to the employees of State Government or Central Government who are governed by separate Rules like the respondents herein.

16. In the impugned judgment, the Learned Single Judge while admitting that the respondent cannot be treated as an “employee” for the general purpose of applying the provision of Payment of Gratuity Act, 1972, however directed the appellant State Government to revisit Rule 9 of Tripura State Civil Services (Revised Pension) Rules, 2017 by relying on the judgment of this Court in *Bhupati Debnath* referred to above and directed the appellant to take proper decision as regards enhancing of the maximum limit as had been done by the Central Government by the notification dt. 29.03.2018.

17. It is not permissible for the Learned Single Judge to give such a direction because it is within the purview of the State Government to enhance the amount or not, particularly when the judgment quoted by him does not deal with the employees of the State Government but deals with the employees of a Government Corporation to whom the Payment of Gratuity Act, 1972 applies.

18. The further observation of Learned Single Judge that there is an expectation that parity in Payment of Gratuity would be maintained as was previously maintained by the State Government in terms of provisions of Section 4(3) of the Payment of Gratuity Act, 1972 is also unwarranted, because the ability to pay higher gratuity depends on the financial capacity of the State Government, and the State Government cannot be compelled to maintain parity with whatever the Central Government pays irrespective of its financial situation. These are matters to be considered by the State Executive keeping in

mind the financial resources of the State and the State cannot be compelled to increase the amount of gratuity payable and make it on par with that given to the Central Government employees.

19. However, insofar as the Learned Single Judge had directed payment of gratuity of Rs.10,00,000/- with interest @ 7% p.a. from the day when it fell due, which date is the date after expiry of 30(thirty) days from the date of retirement is concerned, we see no reason to interfere with the same.

20. Counsel for the respondents contend that the Appellants have not paid the said amount to the respective respondents in these appeals. If so, they shall pay the same or balance unpaid amount with interest @ 7% p.a. from the date it fell due till date of actual payment and the said payment shall be made within 6(six) weeks from today.

These Writ Appeals are disposed of in terms of the above.

Pending application/s, if any, also stands disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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