

HIGH COURT OF TRIPURA
AGARTALA

WP(C)No. 336 of 2025

Sri Shiba Prasad Ghosh

S/O- Late Harimohan Ghosh, Resident of Gokulnagar, Sukantapalli,
P.O- Bishalgarh, P.S- Bishalgarh, District- Sepahijala Tripura, Pin-
799102.

....Petitioner(s)

Versus

1.The State of Tripura

represented by its Secretary, Govt. of Tripura, Department of Home,
P.O- Agartala, District-West Tripura.

2.The Commandant

Govt. of Tripura, 1st Bn TSR, V.B Gram, Gokulnagar, P.O- Bishalgarh,
P.S- Bishalgarh, District- Sepahijala Tripura.

3.Smt. Ratna Ghosh

W/O- Sri Shiba Prasad Ghosh, Resident of Rangapania, P.O-
Bishalgarh, P.S- Bishalgarh, District- Sepahijala Tripura, Pin - 799102.
Presently residing at C/o- Chapala Biswas, Amatali, Biswas Para, P.S-
Amtali, District- West Tripura.

....Respondent(s)

For Petitioner(s)	:	Ms. Sujata Deb(Gupta), Advocate. Mr. Ramprasad Gope, Advocate.
For Respondent(s)	:	Mr. K.De, Addl.GA. Mr. Samarjit Bhattacharjee, Advocate. Mr. K.Nath, Advocate.
Date of hearing & Delivery of Judgment / Order	:	02.02.2026

Whether fit for reporting :

Yes	No
	✓

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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Judgment and Order(Oral)

Heard Ld. Counsel of both sides.

[2] The case, as a chequered history, is that the petitioner as
a Rifleman (GD), entered into the service on 23.04.1985 under
respondent nos. 1 and 2. Initially, on entering into service, he filled in
Attestation form, Personal Data form, GIS nomination form & GPF

nomination form and DCRG nomination form on different occasions, mentioning the name of his wife as Smt. Ratna Ghosh i.e. respondent no.3. He also mentioned in the Service Book, names of his three children, who are Ms. Mampi Ghosh, Ms. Priyanka Ghosh and Mr. Samaresh Ghosh. Meanwhile, in the year 2001, said Smt. Ratna Ghosh filed a petition before the Court of Ld. Judicial Magistrate, 1st Class, Agartala, West Tripura claiming the maintenance for herself, which was ultimately dismissed by order dated 24.05.2002, wherein Ld. Court observed that the petitioner, Ratna Ghosh was not the legally married wife of the present petitioner. Thereafter, the present petitioner approached respondent no.2 for stopping the interim maintenance which was being deducted from his salary earlier for payment to said Smt. Ratna Ghosh, and the respondent no.2, vide order dated 11.07.2002 [Annexure-R/4 in the present writ petition], allowed said petition and also observed that the petitioner was permitted to cancel the nomination furnished in favour of said Smt. Ratna Ghosh.

[3] Thereafter, on 10.02.2020, the petitioner also sent another letter to respondent no.2 for striking off the name of respondent no.3 i.e. Smt. Ratna Ghosh from the Service Book and to insert the name of one Smt. Kanak Lata Ghosh (not a party in this writ petition) as his wife in place of Smt. Ratna Ghosh. A legal notice was also issued thereafter on 09.10.2020 (Annexure-4) which brought no positive response. Finding no alternative, he approached the High Court by filing writ petition bearing no. WP(C) 651 of 2021. Said writ petition was disposed of on 27.05.2022 by a Co-equal Bench of this High Court with the following observations and decision:

“Thereafter, he should initiate an inquiry proceeding, giving opportunity to the petitioner and the respondent No.3 to prove their respective claims, inasmuch as, the respondent No.3 has claimed that she is legally married wife of the petitioner.

On the basis of the outcome of the said inquiry, the respondent No.2 shall take the appropriate action. If it appears during the enquiry that the matter requires judicial decision, the respondent No.2 may ask the petitioner and the respondent No.3 to approach the competent court of law for bringing out the decision.

In terms of the above, this writ petition stands disposed of.”

[4] As submitted by both the sides, it appears that thereafter, respondent no.2 issued a letter to the petitioner on 20.11.2022 (Annexure-6) mentioning the facts that in the declaration under Form of Enrolment, Attestation form, Personal Data and in GPF Subscriber's nomination as well as in nomination for Death Cum Retirement Gratuity (DCRG), the petitioner had earlier mentioned the name of Ratna Ghosh as his wife as original nominee and therefore, an opportunity was provided to the petitioner to prove his case that said respondent no.3 was not his legally married wife.

[5] It is admitted position that the petitioner except furnishing of copy of the judgment of the High Court passed in previous writ petition as well as the judgment of the Ld. Judicial Magistrate, 1st class, has not submitted any other document in this regard before the respondents. Respondent no.2 also issued another letter on 28.12.2022 (Annexure-R/8) informing the petitioner that in pursuance of the order of the High Court, the Department had initiated an inquiry to determine the legal status of the wife of the petitioner and the inquiry report indicated that the petitioner had submitted wrong information before the appointing authority at the time of initial appointment. It was further stated that joint bank account and joint photograph of employee concerned and his/her spouse are required for preparation of pension proposal and further, that the inquiry had ended with the result that the petitioner could not establish the status of legally married wife beyond doubt.

[6] Again, on 21.03.2025, the respondent no.2 issued another letter (Annexure R/10) to the Ld. Counsel of the petitioner in response to a legal notice informing that, according to the inquiry report, the Department had served a letter to the petitioner and respondent no.3 separately with a direction to approach the competent Civil Court for declaration of their status.

[7] Ld. Counsel, Mr. S. Bhattacharjee for respondent no.3 submits that his client has not received any such letter. Anyway, it is now grievance of the petitioner that on the ground of dispute regarding

wifehood, his post-retiral benefits, except leave salary, were not released. Therefore, the petitioner has approached this Court now, again with the following reliefs:

- “i) Admit the petition;
- ii) Call for the records from the custody of the respondents;
- iii) Issue rule as to why a writ of Mandamus shall not be issued directing the Respondent No.2 to release the pension and other pensionary benefit except leave salary of the petitioner and to strike off the name ‘Smt. Ratna Ghosh’ from his service record;
- iv) After hearing the parties, to make the Rule Absolute in terms of prayers made;
- v) Costs incidental to this proceeding;
- vi) Any other relief(s) as to this Hon’ble High Court may deem fit and proper.”

[8] During hearing, Ld. Counsel of the petitioner, Smt. S. Deb (Gupta) submits that, in no way, the Department can withhold the pensionary benefits to the petitioner as same are not bounties and just because there is dispute regarding nomination of wife by the petitioner, same is not sufficient ground not to withhold such pensionary benefits as it is now only means of survival for the petitioner who has retired on 31.01.2022.

[9] Ld. Counsel also relies on a decision of Hon’ble Supreme Court in case of **State of Jharkhand and Others vs. Jitendra Kumar Srivastava and Another; (2013) 12 SCC 210** and the relevant paragraph Nos. 13, 16 and 17 referred by Ld. Counsel, are also extracted hereunder:

“13. A Reading of Rule 43(b) makes it abundantly clear that even after the conclusion of the departmental inquiry, it is permissible for the Government to withhold pension, etc. **only** when a finding is recorded either in departmental inquiry or judicial proceedings that the employee had committed grave misconduct in the discharge of his duty while in his office. There is no provision in the Rules for withholding of the pension/gratuity when such departmental proceedings or judicial proceedings are still pending.

.....
16. The fact remains that there is an imprimatur to the legal principle that the right to receive pension is recognized as a right in “property”. Article 300-A of the Constitution of India reads as under:

“300-A. Persons not to be deprived of property save by authority of law. - No person shall be deprived of his property save by authority of law.”

Once we proceed on that premise, the answer to the question posed by us in the beginning of this judgment becomes too obvious. A person cannot be deprived of this pension without the authority of law, which is the constitutional mandate enshrined in Article 300- A of the Constitution. It follows that attempt of the appellant to take away a part of pension or gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced.

17. It hardly needs to be emphasised that the executive instructions are not having statutory character and, therefore, cannot be termed as “law” within the meaning of the aforesaid Article 300-A. On the basis of such a circular, which is not having force of law, the appellant cannot withhold even a part of pension or gratuity. As we noticed above, so far as statutory Rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these Rules, the position would have been different.”

[10] Ld. Counsel, Smt. Deb(Gupta) further relies on another decision of Gauhati High Court in case of **Kamaleswari Singh vs. Assam State Electricity Board and Ors; (2012)1 GLR 63**. In that case, there was a dispute for wrong recording of date of birth of the employee in the Master Roll of worker of Assam State Electricity Board, wherein, referring to the decision of Hon’ble Supreme Court, the High Court observed that there was necessity for prompt payment of retirement dues to Government servant immediately after his retirement and it would not be unreasonable to direct that the liability to pay penal interest on the dues at the current rate should commence at the expiry of 2 months from the date of retirement. Ultimately, the High Court, directed the respondents to pay all the reitiral dues with 9% interest thereupon per annum, starting from 2 months after the date of superannuation till payment.

[11] Ld. Counsel, Smt. Deb(Gupta) submits that now, as per the decision of Hon’ble Supreme Court, the pensionary benefits are treated to be valuable property of the petitioner and same cannot be taken away except without due procedure of law. Ld. Counsel, therefore, prays for passing necessary direction in the light of the prayer made by the petitioner in the writ petition.

[12] Ld. Addl. GA, Mr. K.De contends that the petitioner was not cooperating during inquiry and could not furnish satisfactory

evidence to show that said Kanak Lata Ghosh was actually his wife and therefore, the Inquiry authority could not finalize the issue, rather, directed the parties to approach the Civil Court in terms of the Judgment of this Court.

[13] Ld. Counsel Mr. Samarjit Bhattacharjee for respondent No.3 submits that earlier in different documents relating to his service record, as indicated above, the petitioner himself mentioned the name of respondent No.3 as his legally married wife and now, he cannot deviate from the same. Moreover, when as per the direction of the High Court the matter is required to be decided by a judicial proceeding, unless same is settled by a judicial decision, no payment can be made to the petitioner regarding his pensionary benefits in view of Rule 69 of CCS Pension Rules, 1972.

[14] Ld. Counsel, Mr. Bhattacharjee also submits that even as per the direction of the High Court in previous writ petition, opportunities were given to the petitioner to prove the fact that not the respondent no.3, rather, Kanak Lata Ghosh was his legally married wife, but he has failed to do so and therefore, as of now, service records stand in the name of respondent no.3 as his nominee as legally married wife.

[15] This Court has considered submissions of both sides and also has gone through the relevant records placed before the Court.

[16] As it appears, the petitioner approached the High Court in above said WP(C) No. 651 of 2021, regarding change of name of his wife in his Service Book. Said issue was decided by the High Court directing the Department to initiate an inquiry giving opportunities to the petitioner and respondent no.3 to prove their respective claims, in as much as, the respondent no.3 had claimed that she was the legally married wife of the petitioner. The Court had further given liberty to the Department to take appropriate action on the basis of outcome of said inquiry and that, if it appeared during inquiry that the matter required judicial decision, further liberty was given to respondent no.2 to ask the petitioner and the respondent no.3 to approach the competent Court of law.

[17] It also appears from the record that Inquiry authority has failed to give due decision in their inquiry as to who is the legally married wife of the petitioner in their inquiry. According to the Department, they asked both the petitioner and the respondent no.3 to approach the competent Civil Court for declaration of their status, but, neither of the parties have yet approached the Civil Court and simultaneously, it is also the case of respondent no.2 that both the petitioner and respondent no.3 have failed to submit requisite documents in favour of their respective claims before them. Therefore, decision in the matter of dispute regarding marital status of respondent no.3 with the petitioner has become disputed for which, ultimately, the Department also did not incorporate the name of Kanak Lata Ghosh in the Service Book of the petitioner. According to the Department, joint bank account and joint photograph of the petitioner with his legally married wife are required for preparation of pension proposal. Now, this matter of dispute regarding such wifehood cannot be reopened further, as, already the matter has been decided by a Coordinate Bench of this Court earlier in above said judgment.

[18] So far the issue of release of pensionary benefit to the petitioner is concerned, same was not an issue raised in the previous writ petition as, during that time, the petitioner was in service. This Court has also considered the relevant provision of Rule 69 of CCS Pension Rules, 1972 and for useful reference, same is also extracted hereunder:

“69. Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorized by the Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the Competent Authority.

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon:

Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period."

[19] On bare reading of the said provision, it appears that there is no embargo in releasing the provisional pension equal to the maximum pension in favour of the petitioner from the date of retirement till any departmental or judicial proceedings are pending and final orders are passed by the competent authority. Therefore, the respondent nos. 1&2 should release the provisional pension to the petitioner to save him from hardship after his retirement.

[20] Though Ld. Addl. GA, Mr. K. De submits that joint photographs and joint bank account are required for the purpose of processing the family pension, but, in the peculiarity of the circumstances of the present case where marital status of the parties are at dispute and the same requires to be decided by a competent Court, such condition will be waived by the respondent nos. 1 and 2 for the time being.

[21] So far the dispute regarding marital status of the parties are concerned, in terms of the Judgment passed earlier by this Court, parties are always at liberty to approach the competent Court and to decide the matter and thereafter to approach the respondent no.2 to act accordingly.

[22] So far the release of gratuity is concerned, Rule 69(c) of CCS Pension Rules, 1972 provides that no gratuity shall be paid to the government servant until the conclusion of the departmental proceedings or judicial proceedings. In the case in hand, no

departmental proceeding or judicial proceeding is pending against the petitioner.

[23] Even, Rule 73 of the Pension Rules, which authorizes the department to withhold the gratuity for adjustment of dues pertaining to a Government servant, may not be applicable in this case, as no such claim has been placed from the side of the state respondents.

[24] In view of the above, the respondent nos. 1 & 2 are directed to take necessary steps from their end regarding release of provisional pension immediately within four weeks from the date of receipt of copy of this order. They are also directed to release the gratuity to the petitioner within eight weeks accordingly, with interest at the rate of 6% per annum from the date when it became due till payment. Ld. Addl. GA, Mr. De, though, submits that for the wrong committed by the petitioner by showing two different persons as his wife on two different occasions and by choosing them to be the nominee and for non-compliance of the direction of the High Court by the petitioner to get the matter settled by the parties by a civil litigation, the delay has occurred, therefore no penal interest may be imposed upon the department. Such submission is not accepted in as much as all such dispute was regarding selection of his nominee by the petitioner and such dispute had no bearing in the matter of making direct payment to the petitioner of his hard earned gratuity when he himself was alive and the nominee had nothing to do with that.

[25] With such observations and directions this writ petition is disposed of.

[26] Interim application(s), if any, shall also stand disposed of.

JUDGE