

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
W.A.No.72 of 2024

1.The State of Tripura and Ors.,
to be represented by the Secretary,
Govt. of Tripura, Tribal Welfare Department,
New Secretariat Complex, Kunjaban, Agartala,
West Tripura, Pin-799006

2.Tribal Welfare Residential Education Institutions Society,
Under Tribal Welfare Department, Govt. of Tripura,
represented by its Member Secretary, Gurkhabasti,
Agartala, West Tripura, Pin-799006

3.The Member Secretary,
Tripura Tribal Welfare Residential Educational Institutions Society,
Tribal Welfare Department, Govt. of Tripura,
represented by its Member Secretary, Gurkhabasti,
Agartala, West Tripura, Pin-799006

4.The Secretary,
Department of Finance, Govt. of Tripura,
New Secretariat Building, New Capital Complex,
Agartala, West Tripura, Pin- 799010

.....Appellant(s)

Versus

Dr. Prashant Kumar, Aged-61 years,
S/O- Lt. Krishan Lal Sharma,
C/O- Sri Sudhir Chandra Naha,
R/O-Datta Para, Jolaibari,
Sabroom, South Tripura, Pin-799141

..... Respondent(s)

For Appellant(s) : Mr. Dipankar Sarma, Addl. G.A.

For Respondent(s) : Mr. Purusuttam Roy Barman, Sr. Advocate.
Mr. Samarjit Bhattacharjee, Advocate.
Mr. Kawsik Nath, Advocate.
Ms. Sutapa Deb Barman, Advocate.

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

Date of Hearing & Judgment : 19/01/2026

Whether fit for reporting : YES

JUDGMENT & ORDER (ORAL)

(M.S. RAMACHANDRA RAO, C.J.)

This Writ Appeal is filed by the State of Tripura, The Tripura Tribal Welfare Residential Educational Institutions Society and others challenging the judgment of the Learned Single Judge dt. 24.01.2024 in WP(C)No.617 of 2023.

2. The respondent was an employee of the Tripura Tribal Welfare Residential Educational Institutions Society which runs under the administrative control of the Tribal Welfare Department of the Government of Tripura. Its main objective is to establish, maintain, control and running of Ekalavya Model Residential School (EMR), Residential School and Ashram School in Tribal Sub-Plan area of the State of Tripura.

3. On 24.12.2002, the Chairman of the said Society appointed the respondent to the post of Principal and the respondent had joined in the said post on 04.01.2003.

4. The respondent attained the age of superannuation on 31.10.2022.

5. The respondent claimed that he was entitled to get full and final payment of gratuity under the Payment of Gratuity Act, 1972 within thirty days in terms of Section 7(3) thereof.

6. However, on 04.01.2023 the appellants paid only Rs.3.5 lakhs to the respondent as retirement gratuity.

7. The case of the respondent is that he had to his credit twenty years of total qualifying service; at the time of retirement his last basic pay was Rs.1,23,600/- and DA was Rs.9,888/-; and in terms of Section 4(2) of

the Payment of Gratuity Act, he is entitled to get Rs.15,40,246/- towards gratuity.

8. The respondent submitted a representation on 11.01.2023 seeking full and final payment of gratuity. He stated therein that his gratuity be calculated on the basis of enhanced ceiling limit of Rs.20,00,000/- which came into force w.e.f. 29.03.2018. He also stated that he was accepting Rs.3.5 lakhs paid to him under protest and that the said payment was also not paid on time and so he is entitled to interest thereon @ Rs.9% p.a.

9. When no action was taken on the respondent's representation by the appellants, he filed WP(C)No.617 of 2023.

10. He contended before the Learned Single Judge that the Payment of Gratuity Act,1972 had been amended by the Act 15 of 2010 and the words and figures "Rs.3,50,000/-" had been replaced by the words "Rs.10,00,000/-" w.e.f. 24.05.2010, and subsequently by Act 12 of 2018 w.e.f. 29.03.2018 by SO No.1420(E) dt. 29.03.2018, the amount of gratuity was raised to "Rs.20,00,000/-" He contended that he should be paid gratuity taking into account the enhanced ceiling limit of Rs.20,00,000/- which came into force w.e.f. 29.03.2018.

11. In the counter affidavit filed by the appellants before the Learned Single Judge, they stated that the appellants and the respondent were provided group gratuity scheme as per the then prevailing provisions which permitted only Rs.3.50 lakhs as gratuity and therefore, he is not entitled to anything more. It was however admitted that the Society receives 100% grant by way of recurring grant from the Ministry of Tribal Affairs, Government of India to run Ekalavya Model Residential Schools and 100%

grants under the Grants Ashram School under State Budget to run the Ashram and Residential Schools.

12. It was also stated that the Society is governed by the relevant Rules of the State Government. It is stated that in a meeting held on 05.09.2009, the Board of Governors of the Society had unanimously approved Rs.5,74,016/- only for implementation of Group Gratuity Scheme (GGS) to its employees @ Rs.3,50,000/- only on attaining the age of superannuation; and thereafter, it had accorded approval for introduction of Group Gratuity Scheme (GGS) through incorporation (sic) of Life Insurance Corporation of India (LIC).

13. The Learned Single Judge rejected the stand of the appellants and held that there was a conscious decision on the part of the Board of Governors to make applicable the Payment of Gratuity Act, 1972 to its employees in the meeting held on 05.09.2009. He held that under Section 4(3) of the Act, the amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government from time to time, and in the year 2018, the limit had been enhanced to Rs.20,00,000/-. He held that the calculation of gratuity to a retired employee has to be made on the basis of the limit prescribed by the Central Government from time to time. He also placed reliance on the judgment of another Learned Single Judge of this Court in WP(C)No.1054 of 2019 in **Sri Bhupati Debnath versus The State of Tripura and Ors.** wherein the Learned Single Judge had held that the revised ceiling of Rs.20,00,000/- will apply w.e.f. 29.03.2018 to all establishments irrespective of whether they are controlled or governed by the State or the Central Government as the

appropriate Government. He therefore directed payment of Gratuity to the respondent in accordance with the provisions of the Act treating the maximum ceiling of gratuity to be Rs.20,00,000/- as notified by the Central Government vide notification dt. 29.03.2018 and also directed payment of interest upon rest of the amount of gratuity @ 7% p.a.

14. Challenging the same, this appeal is filed.

15. Counsel for the appellant relied on Section 4(A) of the Payment of Gratuity Act, 1972 which permitted an employer other than an employer or an establishment belonging to, or under the control of, the Central Government or the State Government to obtain an insurance from the Life Insurance Corporation of India to meet liability for payment towards the gratuity to its employees under the Payment of Gratuity Act, 1972.

16. Counsel for the appellants contends that it was therefore decided in the 6th meeting of the Board of Governors of the Society that there would be a group gratuity scheme for which an amount of Rs.5,74,016 is required including past and present service liability up to 2008-09. He also stated that subsequently there was a decision taken to take a group gratuity insurance policy from the Life Insurance Corporation of India, though the said fact was not placed before the Learned Single Judge and the said policy had now been placed on record in this appeal as an additional document. Annexure-5 of these additional documents is a master policy issued by the Life Insurance Corporation of India to the Society promising to pay Rs.65,83,865/- for the 464 members towards provision of gratuity and life cover benefit. He contends that therefore, there is no liability to pay more than Rs.3.5 lakhs towards gratuity.

17. The counsel for the respondent supported the judgment of the Learned Single Judge.

18. No doubt Section 4(A) of the Payment of Gratuity Act, 1972 permits certain employers to obtain insurance for liability for payment towards gratuity under the Payment of Gratuity Act, 1972 from the Life Insurance Corporation of India. But Section 4(A) does not apply to establishment under the State Government like the appellant society in question which functions under the control of the Tribal Welfare Department of the State Government.

19. That apart, even if any policy is taken by the society from the Life Insurance Corporation of India, that policy of insurance should cover total liability of the said Society towards each employee who retires from service.

20. The gratuity payable to an employee is governed by the Payment of Gratuity Act, 1972 is provided in Section 4(2) subject to the maximum of Rs.20,00,000/- fixed in the notification issued by the Central Government on 29.03.2018.

21. There is no dispute that if the formula in Section 4(2) of the Act is applied, the respondent would be entitled to get Rs.15,40,246/-. Unfortunately, he has been paid only Rs.3.5 lakhs which was the quantum of gratuity limit fixed before 24.05.2010.

22. The appellants cannot wriggle out of the total liability to pay the amount of Rs.15,40,246/- on the pretext that they had taken only insurance from the Life Insurance Corporation of India covering liability of Rs.3.5 lakhs for each of its employees.

23. As rightly held by this Court in the judgment of **Sri Bhupati Debnath**, establishments under the control of the State Government are governed by the limit of liability fixed by the Central Government in the notification issued under Section 4(3) of the Act. It is not open to the appellants to contract themselves out of the said liability by entering into a contract of insurance of the Life Insurance Corporation of India for a lesser amount.

24. So, we do not find any merit in this appeal.

25. It is accordingly dismissed.

No costs.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)



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