

HIGH COURT OF TRIPURA

AGARTALA

WP(C) No.449 of 2025

Sri Ranjit Kumar Roy,

Son of Late Sasanka Kr. Roy, resident of Bhattapukur, Near sukhtara Club Chowmuhani, P.O. & P. S. – A. D. Nagar, Agartala, District – West Tripura, Pin-799003.

.....**Petitioner(s);**

– V e r s u s –

1. Tripura Road Transport Corporation,

(A Govt. of Tripura undertaking) to be represented by the Chairman, Tripura Road Transport Corporation, Krishnanagar, Agartala, West Tripura.

2. The Managing Director,

Tripura Road Transport Corporation, Krishnanagar, Agartala, West Tripura.

.....**Respondent(s);**

For the Petitioner(s)

: Mr. P. Roy Barman, Sr. Advocate,
Mr. Kawsik Nath, Advocate.

For the Respondent(s)

: Mr. Dipankar Sarma, Addl. G.A.

Date of hearing and delivery
of Judgment & Order

: **02.04.2026**

Whether fit for reporting

YES	NO
	√

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Heard Mr. Kawsik Nath, learned counsel led by Mr. P. Roy Barman, learned senior counsel for the petitioner and Mr. Dipankar Sarma, learned Additional Government Advocate for the respondents.

[2] Mr. Kawsik Nath, learned counsel, submits that the petitioner was initially appointed to the post of Peon under respondent no.1 vide memorandum dated 31.03.1983 (Annexure-1) and accordingly, he joined to the said post on 27.04.1983. After completing 10 years, 17 years and 25 years of service respectively, the petitioner was provided with the required pay up-gradation benefit from time to time. Subsequently, vide

order dated 20.12.2021 (Annexure-8), in accordance with the notification No.F2(24)-GA(P&T)/2021 dated 22.06.2021, the petitioner was promoted to the post of Upholster (ad hoc) in the pay scale of Rs.5,700-24,000/-, Grade Pay Rs.2,000-2200-2400-2800-4,200/- with other admissible allowances. In due course, he went on retirement on 31.07.2024.

[3] Prior to his retirement, a memorandum dated 02.05.2024 (Annexure-10) was issued by the respondent no.2 re-fixing his pay as on 01.10.2018 by reducing it to Rs.35,400/- from Rs.38,700/- on the basis of a report of a Special Audit Team and Reconciliation Committee of Tripura Road Transport Corporation (for short, TRTC). By said memorandum, necessary directions were also given that after rectification in the service book of the petitioner, the process of recovery of the excess amount had to be started.

[4] Against the same, the petitioner submitted a representation (Annexure-11) on 10.11.2024, praying that no amount be recovered from his pensionary benefits and that the remaining gratuity be released. He also asserted that before his retirement, he was entitled to receive benefits of two increments, one with effect from 01.07.2023 and another with effect from 01.07.2024 which were not provided to him. Through said representation, the petitioner also prayed for providing such benefits of two increments to him. In response to said representation, the petitioner was informed by the Deputy Managing Director, T.R.T.C vide letter dated 17.01.2025 (Annexure-12) that as per the report of Audit Team and Reconciliation Committee, his basic pay was re-fixed and the authority had decided to recover the excess payment made for such wrong fixation

done earlier. Being aggrieved by the same, the petitioner has filed the present writ petition.

[5] Mr. Kawsik Nath, learned counsel, submits that when the department carried out the work of re-fixation, no opportunity of hearing was provided to the petitioner, and it was done in his absence in violation of the principle of natural justice. Learned counsel, also submits that the petitioner retired as Group-C employee and had no contribution in the alleged wrong fixation, if any, made earlier. The petitioner, neither submitted any false information nor made any statement to mislead the department leading the department to any such wrong fixation. Therefore, in light of the decision of Hon'ble the Supreme Court in case of **State of Punjab and others versus Rafiq Mashi (White Washer) and others [(2015) 4 SCC 334]**, such recovery of the amount is not permissible. Learned counsel further submits that said principle was again reiterated by Hon'ble Supreme Court in case of **Thomas Daniel versus State of Kerala and others [MANU/SC/0569/2022]**. Learned counsel further contends that till date no amount under leave salary benefit has been provided to the petitioner and only a part payment of DCRG has been made. Learned counsel, therefore, prays that the instant writ petition be allowed, directing the respondents not to recover any amount from the leave salary and to release all the pensionary benefits including leave salary and gratuity.

[6] Furthermore, learned counsel of the petitioner submits that the promotion of the petitioner to the post of Upholster on ad hoc basis will now be treated as a promotion on regular basis in view of the notification dated 01.12.2025 issued by the State Government. Therefore, there is

every likelihood of increase of basic pay of the petitioner for that reason too, apart from the grant of two increments which were missed out by the respondents.

[7] Learned Additional Government Advocate, Mr. D. Sarma, however, opposes the writ petition, submitting that due to wrong fixation of the pay of the petitioner, an excess amount was paid to him. Since this involves public money, such excess amount cannot be permitted to be taken away by the petitioner, and therefore, an order for the recovery of such amount was passed.

[8] This Court has considered the submissions of both sides and has also gone through the relevant materials placed in the record. So far the issue raised by the petitioner that the re-fixation was done without hearing him, in violation of principle of natural justice, is concerned, the memorandum dated 02.05.2024 (Annexure-10) issued by the respondent no.2 does not contain any indication that the petitioner was heard before such re-fixation was made final. Therefore, on the ground of violation of natural justice, the said memorandum dated 02.05.2024 cannot sustain further and accordingly same is quashed. Consequently, the reply letter issued by the Managing Director of TRTC on 17.01.2025 (Annexure-12) is also quashed.

[9] Now, so far the matter of recovery of alleged excess amount is concerned, Hon'ble the Supreme Court in said **Rafiq Mashi** (supra) at paragraph no.18 has held as follows:

“18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the

decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

[10] In the instant case, the petitioner is a Group-C employee, and no excess payment was made due to any fault or wrong information furnished from the side of the petitioner. He had no contribution in the alleged wrong fixation made by the respondents regarding his pay. Considering this and in light of said decision of the Hon'ble the Supreme Court, it is not permissible for the respondents to recover any amount from him on the ground of excess payment. Moreover, such alleged re-fixation was made with effect from 01.10.2018, which is beyond five years from the date of his retirement.

[11] Considering all these aspects and also in view of the above said position of law, it is held that any sort of recovery of amount on the ground of wrong fixation is impermissible. Simultaneously, it is also true

that if any error was made by the respondents in fixing the pay of the petitioner, it cannot be allowed to continue.

[12] The writ petition is, therefore, allowed. The respondents are directed to take up the matter of re-fixation of the pay of the petitioner again and decide the same after hearing the petitioner. Needless to say, the respondents will also examine the grievances of the petitioner regarding not providing of benefits of two increments with effect from 01.07.2023 and 01.07.2024 respectively, and also the applicability of subsequent notification dated 01.12.2025 issued by the State of Tripura. Thereafter, the respondents will decide the matter of re-fixation of the petitioner afresh. The respondents will not take any steps to recover any amount from the petitioner on the ground of any excess payment. The entire process shall be completed by them within two months from the date of receipt of copy of this order including release of all related pensionary benefits within the said period including leave encashment benefit and part of DCRG. Upon the amount payable under leave encashment benefit and rest part of DCRG, interest at the rate of 7% per annum shall also be paid to the petitioner with effect from the date when the same fell due till the payment is made.

[13] With such observations and directions, the instant petition is disposed of. Pending application(s), if any, also stands disposed of.

JUDGE