



HIGH COURT OF TRIPURA
A G A R T A L A

WP(C) No.502 of 2025

Dr. Mihir Kr. Das,
Aged about 60 years, Son of Late Sachindra Ch. Das, resident of Ramnagar Road No.8, Agartala, PO Ramnagar, Agartala, District West Tripura, 799002.

..... Petitioner(s)

- V e r s u s -

- 1. The Tripura State Pollution Control Board,**
To be represented by the Member Secretary, Tripura State Pollution Control Board, P.N. Complex, Gurkhabasti, Agartala, West Tripura, PIN 799006.
- 2. The State of Tripura,**
To be represented by the Secretary, Department of Law, New Secretariat Complex, Agartala, West Tripura, PIN 799010.
- 3. The Member Secretary,**
Tripura State Pollution Control Board, P.N. Complex, Gurkhabasti, Agartala, West Tripura, PIN 799006.
- 4. The Chairperson,**
Tripura State Pollution Control Board, P.N. Complex, Gurkhabasti, Agartala, West Tripura, PIN 799006.
- 5. The Commissioner of Departmental Inquiries,**
Government of Tripura, P.N. Complex, Gurkhabasti, Agartala, West Tripura, PIN 799006.
- 6. Life Insurance Corporation of India,**
To be represented by the General Manager (Pension and Group Schemes), Silchar Divisional Office, Meherpur, P.O. Silchar, District Cachar, Assam-788015.

.....Respondent(s)

For the Petitioner(s) : Mr. P. Roy Barman, Senior Advocate.
Mr. Samarjit Bhattacharjee, Advocate.

For the Respondent(s) : Mr. Ratan Datta, Advocate.
Mr. Sayantan Talapatra, Advocate.
Mr. Soumyadeep Saha, Advocate.

Date of hearing and delivery of Judgment & Order : 14th May, 2026

Whether fit for reporting or not :	YES	NO
		√

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

The petitioner was working as Scientist-C in Tripura State Pollution Control Board [in short, TSPCB] and went on retirement on 31.03.2021. When he was in service, the Member Secretary, TSPCB vide memorandum dated 20.03.2020, initiated a departmental inquiry against the petitioner. In that departmental proceeding, after submission of his written statement, he also filed a written objection raising his objection that the disciplinary proceeding which was initiated against him by the Member Secretary was junior to him. The inquiring authority thereafter referred the matter to the Disciplinary Authority for instruction. Having getting no response, the petitioner filed W.P.(C) No.967 of 2021 challenging the memorandum regarding initiation of departmental proceeding against him. A Coordinate Bench of this Court vide judgment and order dated 03.07.2023, dismissed the said writ petition. However, the Division Bench on appeal bearing No. W.A. No.98 of 2023 allowed the prayer of the petitioner vide judgment and order dated 19.03.2024 with the following observation and direction:

“[13] We are, therefore, of the view that interest of justice would be better served if the disciplinary proceeding is initiated afresh on the memorandum of charges by a disciplinary authority who is not subordinate to the petitioner in the organization.

[14] As such, the impugned memorandum of charges dated 20.03.2020 whereby the disciplinary proceedings had been initiated under the orders of Mr. Bishu Karmakar, Member Secretary, TSPCB cannot be sustained in the eye of law. It is accordingly quashed. The TSPCB/Disciplinary Authority shall initiate a fresh proceeding in respect of the same charges against the petitioner and take a decision on conclusion thereof in accordance with law in a time bound manner. Accordingly, the instant appeal is allowed on the aforesaid point and to the extent indicated above.”

[2] Now, it is the case of the petitioner that after the said judgment of the Division Bench, the respondent No.1 by issuing a notification on 02.07.2024 [Annexure-8] appointed one Dr. K. Sasikumar, IFS, Chairman, TSPCB to act as the Disciplinary Authority.

[3] Thereafter, the petitioner raised his objection vide communication dated 28.02.2025 [Annexure-9], raising his objection that by the judgment of the High Court, the TSPCB was not authorized to declare the Chairman of the said Board as Disciplinary Authority. Meanwhile, according to the petitioner, 3[three] different memoranda are issued on 03.09.2024 [Annexure-10],

05.09.2024 [Annexure-12] and 21.09.2024 [Annexure-14] whereby, 3[three] departmental proceedings are now initiated against the petitioner by said Chairman of TSPCB.

[4] Mr. Roy Barman, learned senior counsel referring to the Rules of Tripura State Pollution Control Board Employees' Group Gratuity Assurance Scheme, wherein the definition of employment is mentioned to the effect that the 'Employer' shall mean the 'Member Secretary', Tripura State Pollution Control Board. Learned senior counsel also referred Rule 2(g) of CCA(CCS) Rules, wherein it is mentioned that "disciplinary authority" means the authority competent under these rules to impose on a Government servant any of the penalties specified in Rule 11 of sub rules.

[5] Learned senior counsel contends that the Chairman of the said Board being an IFS is not the accepting authority here and therefore, he cannot act as the Disciplinary Authority in this case and as such, departmental proceedings initiated against the petitioner are liable to be quashed. Thereafter, it appears that vide order dated 22.04.2025, passed in three disciplinary proceedings [Annexure-17,18 & 19 respectively], the inquiring authority has taken note of the objection as raised by the petitioner and has closed down the inquiry against the petitioner in all three departmental proceedings. Learned senior counsel also submits that despite the inquiry being closed, the benefit of commutation pension has not been allowed by the respondent No.1 in favour of the petitioner. As the departmental proceedings are already closed down by the Inquiring Authority, learned senior counsel does not press any relief regarding quashing of said proceedings but presses only for the relief of commutation of pension.

[6] Mr. S. Bhattacharjee, learned counsel led by Mr. Roy Barman, learned senior counsel further adds that the pensionary benefits are the property of an employee as recognized under Article 300A of the Constitution and therefore, without any valid authority, same cannot be withheld. Mr. Bhattacharjee, learned counsel also submits that commutation of pension is also the part of such pensionary benefits and here in this case, there is no pendency of any departmental proceeding against the petitioner. Therefore, there is no scope for the respondent to withhold the commutation benefit of the petitioner. To gain support of his submission, Mr. Bhattacharjee, learned

counsel also relies on a decision of Hon'ble Supreme Court in the case of ***State of Jharkhand and others vs. Jitendra Kumar Srivastava and another; (2013) 12 SCC 210*** wherein the respondent was governed by Bihar Pension Rules and the Department though sanctioned 90% of the provisional pension to the respondent but withheld remaining 10% thereof along with his salary for his suspension period and also did not pay the benefit of leave encashment and gratuity. Hon'ble Supreme Court referring to Rule 43 (b) of said Bihar Pension Rules observes that the State Government had the power to withhold or withdraw the pension or any part of it when the pensioner is found to be guilty of grave misconduct either in a departmental proceeding or in a judicial proceeding but said provision does not empower the State to invoke the said power while the departmental proceeding or the judicial proceeding were pending and were not disposed of. Withholding of pension under said Rule is permissible only when a finding is recorded either in the departmental inquiry or in judicial proceedings that the employee has committed grave misconduct in the discharge of his duty while in his office. It is also observed by the Hon'ble Apex Court in the said decision that the right to receive pension is recognized as a right to property and a person cannot be deprived of his pension without the authority of law, which is the Constitutional mandate enshrined in Article 300A of the Constitution. It is also further observed that on the basis of a circular, which is not having the force of law, the employer cannot withhold even a part of pension or gratuity and accordingly, the appeal filed by the State of Jharkhand was dismissed.

[7] Mr. Ratan Datta, learned counsel representing respondent Nos.1,3 and 4 submits that the present petitioner is not governed by CCS (Pension) Rules, 1972 rather his pension is regulated by the Rules of the Tripura State Pollution Control Board Employees' Group Superannuation Scheme for extension of defined pensionary benefit to the employees/officers of State Pollution Control Board and as per said Rules, more particularly Rule 13, the Department has the authority to withhold the commutation of a percentage of a pension till completion of departmental or judicial proceeding, if any, pending against an employee. The relevant Rule 13 is extracted hereunder:

"13. Commutation of Pension:

If the member, so desire, a part of corpus may be commuted for the single payment, provided that such payment shall not exceed one third of corpus.

However, an employee or pensioner against whom departmental or judicial proceedings are pending is not eligible to commute a percentage of his pension till completion of such proceedings.”

[8] Mr. Datta, learned counsel submits that most illegally the inquiring authority dropped all the three departmental proceedings vide order dated 22.04.2025 in violation of CCS (Pension) Rules. According to Mr. Datta, learned counsel said CCS (Pension) Rules never authorize an inquiring authority to examine and to close down an inquiry on the ground of its maintainability rather when a Department refers the matter for inquiry to an inquiry officer, he is duty bound to give his findings either in a positive or in a negative manner. Therefore, the order passed by the inquiring authority on 22.04.2025 in all the three departmental proceedings was totally without jurisdiction and they also thereafter sent a letter to the inquiring authority on 28.04.2025 (Annexure CA-9) with a request to review the aforesaid orders and to inquire into the charges framed against the petitioner by the disciplinary authority. Mr. Datta, learned counsel also submits that despite sending of such letter, the matter is pending before the inquiring authority for more than one year without any response. Therefore, according to Mr. Datta, learned counsel, it cannot be said that the departmental proceeding is already over and as such, the Department has the authority to withhold the commutation benefit of the petitioner. Learned counsel also contends that the decision as referred by Mr. Bhattacharjee, learned counsel of the petitioner does not fit in within the facts of this case rather the decision was rendered relying on a different pension rules applicable in the State of Bihar.

[9] Mr. Sayantan Talapatra, learned counsel for respondent No.6 submits that they are ready to comply with the direction(s) whatsoever is passed by this Court in this writ petition.

[10] Mr. Soumyadeep Saha, learned counsel for respondent No.2 simply submits that they are only formal party in this writ petition.

[11] Court has considered the rival submissions of the parties, and has also considered the materials placed by them.

[12] It is a fact that at present, there is no departmental proceeding pending against the petitioner as same has been, either legally or illegally,

closed down by the inquiring authority vide order dated 22.04.2025. Simultaneously, it is also true that for restoring the same, the respondent department has already sent a letter to the inquiring authority but without disposing the same, said inquiring authority has kept it pending for a long period without any explanation. It is also further noticeable that due to said stagnating situation the petitioner having gone on retirement is not being able to get the benefit of commutation till date and is under sufferance. It is also admitted fact that all other pensionary benefits have already been released in favour of the petitioner by the department without any objection or resistance from their part.

[13] Court has also gone through the charges as was framed against the petitioner in those departmental inquiries. There is no allegation specifically mentioned in those charges about any sort of defalcation of any amount or any pecuniary loss caused to the department by the petitioner. Considering all these aspects, it appears to this Court that when a petition has already been filed by the department to the inquiry officer for restoring the departmental proceeding, it is obligatory for the said inquiring authority to dispose of the same and to communicate the decision to the said department without delay but without any action thereupon, said inquiring authority has kept it pending for uncertain period. Simultaneously, it also true that for pendency of said communication of the department to the inquiring authority, the petitioner cannot be made sufferer. If in any case, said departmental proceedings are again restored and after inquiry the petitioner is punished and he is required to refund any amount to the department then only the question of recovery from or payment to be made by the petitioner, would arise. Therefore, there is no justification at this stage to withhold the amount of the commutation benefit for uncertain period.

[14] Considering all these aspects, the writ petition is allowed. The respondent Nos.1 and 3 are directed to provide the benefit of commutation of pension to the petitioner along with interest @ 7% per annum thereupon from the date when it felt due till payment, within two months of receipt of copy of this order on submission of an undertaking by the petitioner to respondent Nos.1 and 3 that in case in future, he is required to pay any amount to the department, he will be liable to return so. Simultaneously, respondent No. 5 is also directed to dispose of the petition dated 28.04.2025 of respondent Nos.1,3

and 4 within two weeks of receipt of copy of this judgment in accordance with law.

With the above said terms and direction, the writ petition is disposed of.

No order as to costs.

Pending application(s), if any, shall also stand disposed of.

JUDGE



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