

THE HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) 278 of 2006

Shri Gopal Krishna Nath
S/O. Late Mahendra Kumar Nath,
Resident of Gokulpur,
P.S. Radhakishorepur,
Udaipur, South Tripura.

..... *Petitioner*

- Vs. -

1. The State of Tripura,
Represented by the Secretary to the
Government of Tripura,
Home Department,
Agartala, West Tripura.
2. The Secretary to the
Government of Tripura,
Finance Department,
Agartala, West Tripura.
3. The Director General of Police,
Government of Tripura,
Agartala, West Tripura.
4. The Superintendent of Police,
South Tripura, Udaipur.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the Petitioner	: Ms. S. Deb Gupta, Advocate.
For the respondents	: Mr. S. Chakraborty, Addl. GA.
Date of hearing & delivery of Judgment & order	: 08.04.2015.
Whether fit for reporting	: No

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ.)

The petitioner was working as a Sub-Inspector of Police in the Tripura Police. He retired on attaining the age of superannuation on 31.01.2006. At the time of his retirement, he was drawing salary in the pay scale of Rs.7450 – 13000/-. However, the State of Tripura by an order dated 23.05.2006 passed after the retirement of the petitioner reduced the pay and his pay was refixed in the scale of Rs.5500 – 10700/- from 01.06.1996 to 31.12.1998 and thereafter in the pay scale of Rs.6500 – 12300/- with effect from 01.01.1999 till the date of his retirement.

2. Admittedly, no notice was issued to the petitioner before refixing his scale. On this short ground alone the impugned order is liable to be set aside because no order refixing the pay of the petitioner to his detriment could have been issued without first following the Rules of natural justice. The petitioner till the date of his superannuation was drawing salary in the scale Rs.7450 – 13000. After his retirement, the pay could not have been refixed without giving notice to the petitioner.

3. It would be pertinent to mention here that the petitioner was one of the plaintiffs in a suit wherein they had claimed this pay scale and vide judgment dated 10.01.2006, a learned Single Judge of the Gauhati High Court had held that the

petitioner was entitled to the pay scale of Rs.7450 – 13000/- since earlier he was in the pre-revised scale of Rs.1700 – 3980/-. We fail to understand how the State could have overruled the judgment of the learned Single Judge by an executive order. This is not at all acceptable. Furthermore, we may point out that the State has filed Special Leave Petitions against the judgment of the learned Single Judge before the Apex Court. In these Special Leave Petitions, leave was granted and the appeals are still pending before the Apex Court.

4. On 27.07.2009, the Apex Court on the stay application filed by the State had filed the following order:-

"Leave granted.

Hearing expedited.

Learned counsel for the State has placed before us a copy of letter dated 25th July, 2009, received by him from the Assistant Inspector General of Police (HQs.), stating that out of 11 respondents, 5 respondents who have retired from service on superannuation are drawing pension as per PPO shown against their names. For the remaining six respondents, it is stated that they are still continuing in service. Despite what is stated in the letter, learned counsel for the respondents still asserts that the respondents, who have retired on superannuation, are not being paid pension as per the admitted pay- scales.

Without commenting on the rival stands, we direct that till the disposal of this appeal, the State shall pay and/ or continue to pay pension to the respondents as per the pay-scales admittedly payable to the respondents, who have superannuated. Arrears, if any, on that basis shall also be paid to them."

5. In the light of this order passed by the Apex Court, the petitioner is entitled to pension, areas and all other retiral benefits in terms of the order passed by the Apex Court. Since there is violation of the judgment of this Court and also violation of the interim order passed by the Apex Court, we direct that the pension and arrear shall be paid to the petitioner in terms of the order dated 27.09.2009 of the Supreme Court and interest on this @ 12% per annum from 27.09.2009 till the payment is made.

6. The writ petition is disposed of in the aforesaid terms.

JUDGE

CHIEF JUSTICE

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