

IN THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.73 of 2015, WP(C) No.256 of 2015, WP(C) No.257 of 2015,
WP(C) No.258 of 2015, WP(C) No.259 of 2015, WP(C) No.260 of 2015,
WP(C) No.261 of 2015, WP(C) No.262 of 2015, WP(C) No.263 of 2015,
WP(C) No.264 of 2015, WP(C) No.265 of 2015 and WP(C) No.266 of 2015

In WP(C) No.73 of 2015:

Petitioners:

1. Sri Dilip Kumar Podder,
S/o. Lt. Suresh Ch. Podder,
Of North Banamalipur, P.O. Agartala, West Tripura.
2. Sri Narayan Chandra Shil,
S/o. Lt. Harendra Kr. Shil,
Of Bordowali (Near Yuvak Sangha), P.O. A.D. Nagar,
West Tripura.
3. Sri Mohitosh Chakraborty,
S/o. Lt. Madan Mohan Chakraborty,
Vill. & P.O. Shalbagan, P.S. Narsinghar,
Dist.- West Tripura.
4. Sri Rabindra Debnath,
S/o. Lt. Purna Ch. Debnath,
Vill. & P.O. Durjoynagar, P.S. Airport,
Dist.- West Tripura.
5. Sri Basab Bhattacharjee,
S/o. Lt. Krishna Bandhu Bhattacharjee,
Ramnagar Road No.8, P.O. Ramnagar,
Agartala, West Tripura.
6. Sri Sankar Ghosh,
S/o. Lt. Nagendra Kr. Ghosh,
Ushabazaar (Near B.R. Sangha), P.O. Airport,
Dist.- West Tripura.
7. Sri Dilip Kumar Dey,
S/o. Lt. Santosh Kr. Dey,
Shibbari Road, Dharmanagar, North Tripura.
8. Sri Labanya Singh,
S/o. Lt. Mani Singh,
Vill. & P.O. Ujan Abhoynagar, Dist. West Tripura.
9. Sri Bijan Purkayastha,
S/o. Lt. Bipin Behari Purkayastha,
Of Madhya Nayapara, Dharmanagar, North Tripura.
10. Sri Swapan Kumar Biswas,
S/o. Lt. Digendra Kr. Biswas,
P.O. & Vill. Ganki, P.S. Khowai, Dist. Khowai, Tripura.
11. Sri Makhanlal Bhowmik,
S/o. Lt. Thakurdas Bhowmik,

Of Town Rajarbag, P.O. R.K.Pur, Dist. Gomti, Tripura.

12. Sri Parimal Chandra Deb,
S/o. Lt. Subodh Ch. Deb,
Of Milan Sangha, P.O. AD Nagar,
Agartala, West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation Ltd.,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist.- West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.256 of 2015:

Petitioner:

Sri Parimal Chandra Deb (retired Mechanic),
S/o. Lt. Subodh Ch. Deb, Of Milan Sangha,
P.O. A.D. Nagar, Agartala, West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist.- West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.257 of 2015 :**Petitioner:**

Sri Swapan Kumar Biswas (retired Helper),
S/o. Lt. Digendra Kr. Biswas, P.O. & Vill. Ganki,
P.S. Khowai, Dist. Khowai, Tripura

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation Ltd.,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist. West Tripura

In WP(C) No.258 of 2015:**Petitioner:**

Sri Makhanlal Bhowmik (Retired Booking Clerk),
S/o. Lt. Thakurdas Bhowmik of Town Rajarbag,
P.O. R.K. Pur, District- Gomti, Tripura

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist. West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.259 of 2015:**Petitioner:**

Sri Bijan Purkayastha (Retired L.D. Clerk),
S/o. Lt. Bipin Behari Purkayastha of Madhya Nayapara,
Dharmanagar, North Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation Ltd.,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation,(A Govt. of Tripura
undertaking), Krishnanagar, P.O.:- Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.260 of 2015:**Petitioner:**

Sri Labanya Singh (Retired Light Vehicle Driver)
S/o. Lt. Mani Singh, Vill. & P.O. Ujan Abhoynagar,
Dist. West Tripura

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.

- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O.:- Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate

In WP(C) No.261 of 2015:

Petitioner:

Sri Mohitosh Chakraborty (Retired Mechanic),
S/o. Lt. Madan Mohan Chakraborty, of Vill. & P.O. Shalbagan
(B.S.F. Pard), P.S. Nasinghar,
District- West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O.:- Agartala,
P.S. West Agartala, Dist- West Tripura

In WP(C) No.262 of 2015:

Petitioner:

Sri Dilip Kumar Dey (retired Heavy Vehicle Driver),
S/o. Lt. Santosh Kr. Dey, Shibbari Road, Dharmanagar,
North Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,

P.O. Agartala, P.S. West Agartala, Dist.- West Tripura.

- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.263 of 2015:

Petitioner:

Sri Basab Bhattacharjee (Retired Booking Clerk),
S/o. Lt. Krishna Bandhu Bhattacharjee,
Ramnagar Road No.-8,
P.O- Ramnagar, Agartala, West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.264 of 2015:

Petitioner:

Sri Narayan Chandra Shil (Retired Booking Clerk),
S/o. Lt. Harendra Kr. Shil of Bordowali
(Near Yuvak Sangha), P.O. A.D. Nagar,
West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation Ltd.,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.265 of 2015:

Petitioner:

Sri Sankar Ghosh (Retired Bus Conductor),
S/o. Lt. Nagendra Kr. Ghosh, Ushabazaar
(Near B.R. Sangha), P.O. Airport, Dist. West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation Ltd.,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

In WP(C) No.266 of 2015:

Petitioner:

Sri Rabindra Debnath (Retired Heavy Vehicle Driver),
S/o. Lt. Purna Ch. Debnath, Vill. & P.O. Durjoynagar,
P.S. Airport, District- West Tripura.

BY ADVOCATE:

Ms. R. Purakayastha, Advocate.

– Versus –

Respondents:

- (1) Tripura Road Transport Corporation Ltd.,
(A Govt. of Tripura undertaking),
Represented by its Chairman, Krishnanagar,
P.O. Agartala, P.S. West Agartala, Dist. West Tripura.
- (2) The Managing Director,
Tripura Road Transport Corporation, (A Govt. of Tripura
undertaking), Krishnanagar, P.O. Agartala,
P.S. West Agartala, Dist- West Tripura

BY ADVOCATE:

Mr. P. Dutta, Advocate.

B-E-F-O-R-E

**THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR.JUSTICE S. TALAPATRA**

Date of hearing and delivery : **17.08.2015**
of judgment and order

Whether it is fit for reporting : NO

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

All these writ petitions are being disposed of by one judgment since the sole issue involved in all the cases is identical.

02. The petitioners in all the cases are employees of the Tripura Road Transport Corporation, (in short, 'TRTC'). They have all retired on attaining the age of superannuation on different dates. The 'TRTC' has paid gratuity to the petitioners by taking the maximum amount of gratuity

payable to be Rs.3,50,000/- (Rupees three lacs fifty thousand) only. The case of the petitioners is that as per the law, as amended, the employer is liable to pay gratuity upto a maximum level of Rs.10,00,000/- (Rupees ten lacs fifty thousand) only. In this regard, there has been litigation earlier also between an employee of the TRTC and the 'TRTC' which was decided by this Court. The said case being W.P.(C) No.247 of 2013 (***Sri Subhas Chandra Saha –Vs- The State of Tripura and Ors.)*** was decided on 29.04.2014. In that case, after discussing the entire law of the subject, we held that the 'TRTC' is covered under the provisions of the Payment of Gratuity Act and thereafter held that the State has no authority to exempt the 'TRTC' from the purview of the Act, unless the retiral benefits given by the employer are better than those provided under the Payment of Gratuity Act. We may make reference to certain paragraphs of the judgment:

"9. In view of the clear cut enunciation of law by the Apex Court, the T.R.T.C. is covered under the provisions of the Act.

12. A bare reading of Section 5 makes it absolutely clear that the State can exempt any establishment etc. from the provisions of the Act only after the State is satisfied that the employees of such establishment etc. are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under the Act. Therefore, every employee who is covered under the Act must get the amount which is payable under the Act. However, if an employer provides such terms of employment which are more beneficial to the employees than the provisions of the Payment of Gratuity Act then only can the State Government exempt such establishment from the rigours of Payment of Gratuity Act. This is not the case here.

13. Coming to the issue of interest, gratuity is payable to an employee immediately on his retirement or termination of his service. Earlier the maximum gratuity payable was Rs.3,50,000/- but this has been enhanced to Rs.10,00,000/-. Under Section 7(3), the employer must arrange to pay the amount of gratuity within 30 (thirty) days from the date it becomes payable. Therefore, at the most, gratuity should be

paid within 30 (thirty) days of retirement. Section 7(3)(A) of the Payment of Gratuity Act, reads as follows:

"7(3)(A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify. Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground".

14. Admittedly, there is no fault of the employee in the present case and, therefore, the petitioner is entitled to interest. The interest should not exceed the rate notified by the Central Government for repayment of long term deposits. The rate of long term deposits is 9% or 10%. Therefore, the petitioner is held entitled to interest @9% per annum."

03. This judgment has not been challenged by the 'TRTC'. We would have expected that 'TRTC' to apply this judgment to all its employees. However, we find that even after the petitioners made representations in this behalf and legal notices were also issued, the 'TRTC' did not make payment. Along with the reply, filed in W.P.(C) No.256 of 2015, the 'TRTC' has enclosed a communication dated 30th July, 2015 sent to the Under Secretary, Government of Tripura, Transport Department for release of funds. We had entertained the present writ petition in March 2015 and it is apparent that only after the writ petition was entertained, the 'TRTC' woke up from its slumber, obtained legal opinion of its counsel and thereafter sent the recommendation to the State Government. Therefore, we are clearly of the view that all the petitioners are entitled to costs. Ms. R. Purakayastha,

learned counsel does not dispute the calculations given along with the reply of the writ petition being W.P.(C) No.256 of 2015 **(Sri Parimal Chandra Deb -Vs- TRTC & Anr.)**.

04. We, therefore, allow each one of the writ petitions and the petitioners are held entitled to gratuity in accordance with the provisions of Payment of Gratuity Act. Accordingly, the 'TRTC' is directed to pay to each of the petitioners the amount of gratuity and interest as calculated along with cost of Rs.1,000/- (Rupees one thousand) only to each one of the petitioners. It is made clear that the entire amount due and payable as per the calculations set out shall be paid to the claimants latest by 31st December, 2015 failing which the 'TRTC' shall be liable to pay interest upto the date the amount is made @12% per annum.

05. These matters are disposed of accordingly.

JUDGE

CHIEF JUSTICE

MB