

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

WP(C) 390 of 2014

Sri Subhash Chandra Das
(Ex-Supervisor)
S/O late Kamini kumar Das
resident of Bhattapukur near Suktara Club
P.O. A.D.Nagar-799003, P.S. West Agartala,
District- West Tripura.

.... Petitioner.

VERSUS

- 1. The State of Tripura**
represented by Secretary
to the Government of Tripura
Department of Cooperative etc., Civil Secretariat
New Capital Complex, P.O.- Kunjaban-799006
Agartala, District- West Tripura.
- 2. The Chairman**
Tripura State Co-operative consumer's Federation
Limited, Sakuntala Road, Agartala-799001
District- West Tripura.
- 3. The Chief Executive Officer**
Tripura State Co-operative consumer's Federation
Limited, Sakuntala Road, Agartala-799001
District- West Tripura.
- 4. Tripura State Co-operative consumer's
Federation Limited**, Sakuntala Road, Agartala-
799001,P.S. West Agartala, Dist. West Tripura.
- 5. The Registrar of Co-operative Societies**
Government of Tripura, Palace Compound,
Agartala-799001, District- West Tripura.

.... Respondents

BEFORE

**THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR. JUSTICE U.B. SAHA**

For the petitioner : Mr. PK Dhar, Advocate
For respondent No.1 : Mr. TD Majumder, GA
For respondent No.2,3 : Mr. R.Chakraborty, Advocate
Date of hearing and : 30.07.2015.
delivery of judgment.
Whether fit for reporting : NO

JUDGMENT & ORDER(ORAL)

(Deepak Gupta, CJ)

This is a petition filed by the petitioner who was serving as Group 'C' employee in the Tripura State Co-operative Consumer's Federation Limited. It is not disputed, that the petitioner retired on attaining the age of superannuation on 31.03.2011. It is also not disputed, that on his retirement, he was entitled to an amount of Rs.4,20,852/-. The petitioner, was however, paid only a sum of Rs. 1 lakh and the respondent No.2, Co-operative Society as well as respondent No.3, the Chief Executive Officer of the Society assured the petitioner that the balance would be paid to him as and when the financial situation of the Society would improve, on grant being received from the State government.

2. Reply has been filed by the State government as well as by the Co-operative Society. As far as the State government is concerned, it has washed its hands off the matter and it is stated by the State government in its reply that it has nothing to do with the Society and that it is not legally bound to give any grants to the society.

3. We are not going into this question because if the Society has any grievance against the government, it can file a separate petition of its own and claim any benefits which it may feel the State is bound to give to it.

4. We are clearly of the view that the employer cannot withhold the dues of an employee, especially after the employee has retired. The petitioner retired on 31.03.2010. More than five years have elapsed and this sum of Rs.3,20,852/- has been withheld from the employee. The writ petition was filed in the year 2014 and we have given repeated opportunities to the employer to pay this amount.

5. The stand of the Society is that it has no money to pay this amount. According to Sri Chakraborty, learned counsel appearing on behalf of respondent No.2, Co-operative Society, since the Society has no fund, it cannot pay the dues of the petitioner and the State may be directed to pay this amount.

6. We are afraid that we cannot accept such submission of Sri Chakraborty, because we find that there is nothing before us to show that the State is liable to pay this amount. The petitioner was an employee of the Society and the Society is bound to pay the dues which even according to the Society are due and payable to the petitioner.

7. We, therefore, dispose of the writ petition with the following directions:

- (i) **That, the Society shall pay the sum of Rs.3,20,852/- along with interest @9% per annum from 01.04.2011 till payment of the amount to the petitioner and this amount be positively deposited by 31.12.2015;**
- (ii) **The Society is at liberty to approach the State government for finances but even if the State government does not give such finances, it is the responsibility of respondent No.2, Society to pay the amount;**
- (iii) **If the Society cannot repay the amount then a petition for winding up the Society should be filed so that the Society wound-up and the dues and liabilities of all the creditors are paid and unnecessary payments are not made to the office bearers of the Society.**

8. With this observation, the writ petition is disposed of.

JUDGE

CHIEF JUSTICE

Saikat