

W.P.S.T. 149 of 2025

Sudhir Chandra Nandi
Vs.
The State of West Bengal & Ors.

Mr. Sougata Mitra,
Ms. Soma Chakraborty,
Mr. Nikhil Gupta,
Mr. Subhadeep Maitra

...for the Petitioner

Mr. Amal Kr. Sen, ld. A.A.G.,
Mr. Sudip Sarkar

...for the State

1. Heard the learned counsel for the petitioner and the learned A.A.G.
2. An issue arising for consideration in the present proceeding is whether the respondent authorities are justified in withholding gratuity of the petitioner on the ground that a criminal prosecution involving moral turpitude is pending against him since before his retirement. The petitioner approached the West Bengal Administrative Tribunal ('S.A.T.' for short) raising a grievance regarding withholding of such benefits. By an order dated 27.01.2016 passed in O.A. No. 511 of 2015, filed by the petitioner, the S.A.T. has dismissed the petitioner's O.A. The reason assigned for rejecting the petitioner's claim is that the nature of offences pending against the petitioner is grave and heinous and therefore, by reading Rule 14 with Rule 10(2) of the West Bengal Services (Death cum Retirement Benefit) Rules, 1971 ('DCRB Rules' for short), the

authorities are justified in withholding the retiral dues of the petitioner.

3. The learned counsel for the petitioner submits that withholding of gratuity is unjustified. Since no proceeding is pending against him with an allegation of any loss caused to the Government liable to be recovered from the petitioner, the authorities are not in a position to invoke the provisions contained in Rule 10 of the DCRB Rules.
4. Insofar as Rule 14 is concerned, the same has application only insofar as pensionary dues are concerned. Considering the effects of these Rules, a coordinate Bench of this Court has decided the issue whether gratuity can be withheld under such circumstances. A judgement has been rendered by the coordinate Bench on 10.06.2025 in **W.P.S.T. No. 8 of 2025**. Relevant extract of the judgement reads as follows:

“19. In the present case the petitioner is a retired Government servant against whom criminal proceedings involving moral turpitude are pending in a Court of law, since while he was in service. Thus, Rule 14 is applicable.

20. Rule 14 of DCRB 1971 conspicuously confines itself to enable the Government to withhold or not to sanction any pension until termination of a criminal proceeding involving moral turpitude. This rule omits to mention that gratuity may also

not be sanctioned, or that it can be withheld in such circumstances. Had it been the intention of the rule to provide for withholding of gratuity it would have been stated in so many words in rule 14, as has been specifically stated in rule 8, 9; and rule 10 (2) of DCRB 1971. The Rule where it intends to provide for withholding of gratuity has expressed such intention explicitly and not relied on the definition clause in rule 7 (f) wherein “pension” is said to include gratuity.

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22. Viewed thus, we have no hesitation in concluding that Rule 14 of the D.C.R.B. Rules justifies withholding of petitioner’s pension and payment of interim allowance 2/3 of the pension amount till termination of the criminal proceedings. Rule 14, however, does not provide the source of power to the Government to withhold gratuity. We find the petitioner entitled to payment of gratuity, Leave Encashment, Group Insurance and Provident Fund.”

5. In the present case, the petitioner has confined his relief to release of the withheld amount of gratuity. The learned A.A.G. appearing for the State being faced with decision of the coordinate Bench is not able to distinguish the present case with the case of ***Krishnadas Chatterjee Vs. The State of West Bengal & Ors.*** decided by this Court in ***W.P.S.T. No. 8 of 2025*** (*supra*).

6. Considering the rival submissions, the settled legal position emanating from the judgement, extracted above, we find that there is no justification for withholding the petitioner's gratuity as there is no such source of power either in Rule 10(2), or Rule 14 of DCRB Rules. The petitioner is, therefore, entitled to payment of gratuity.
7. The due gratuity is required to be paid to the petitioner within a period of four weeks from the date of receipt/production of a copy of this order before the authority. The authority should make the payment along with a chart showing the details of calculation of the amount being paid, for the sake of transparency.
8. The order dated 27.01.2016 passed by the S.A.T. in O.A. No. 511 of 2015 is set aside.
9. In view of the above noted directions, the Writ Petition being **W.P.S.T. No. 149 of 2025** is allowed.
10. There will be no order as to costs.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)