

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No. 107 of 2024

Sri Tapan Kumar Chakraborty

.....Petitioner(s)

Versus

The State of Tripura & Ors.

.....Respondent(s)

For Petitioner(s)	:	Mr. P. K. Dhar, Sr. Adv.
	:	Mr. R. Debnath, Adv.
For Respondent(s)	:	Mr. B. Majumder, Dy. S.G.I.
	:	Mr. Kohinoor N. Bhattacharyya, G.A.

HON'BLE MR. JUSTICE S. D. PURKAYASTHA

O_R_D_E_R

28.03.2024

Heard Mr. P. K. Dhar, learned Senior Counsel assisted by Mr. R. Debnath, learned counsel appearing for the petitioner.

Also heard Mr. Kohinoor N. Bhattacharyya, learned G.A. appearing for the respondent Nos.1 to 3 as well as Mr. B. Majumder, learned Dy. S.G.I. appearing for the respondent No.4.

The petitioner was serving in the department of the Inspector General of Prisons, Prisons Directorate, Tripura, Agartala and his last place of posting was in the office of the Superintendent, District Jail Udaipur, Gomati District, Tripura wherefrom he went on superannuation in the afternoon of 31.10.2021 on attaining his age of 60 years.

Admittedly, during service he received an house building advance of Rs.27,500/- as 1st(first) installment out of which according to the respondents he returned Rs.2,500/- and rest amount of Rs.25,000/- was still recoverable from him. On his retirement, the Department calculated his gratuity to the tune of Rs.9,44,000/- and released Rs.7,08,000/- and rest $\frac{1}{4}$ (one-fourth) of gratuity amounting

to Rs.2,36,000/- was kept withhold by respondent Nos.1 to 3. The petitioner in his writ petition asserted that he had already returned the total amount of Rs.27,500/-, but despite the same the employer did not release the said total amount of gratuity and with that grievance he filed the writ petition for the following reliefs:-

" (i) Issue Rule calling upon the Respondents and each of them to show cause as to why a writ of certiorari and/or in the like nature shall not be issued for transmitting the relevant records lying with them for rendering substantive and conscionable justice to the Petitioner;

(ii) Issue Rule calling upon the Respondents and each of them to show cause as to why a writ of mandamus and/or in the like nature shall not be issued mandating/directing them to release the remaining 1/4 th amount of Death-cum-Retirement Gratuity to the Petitioner immediately;

(iii) Issue Rule calling upon the Respondents and each of them to show cause as to why a writ of mandamus or in the like nature shall not be issued directing them to release the remaining 1/4 th amount of Death-cum-Retirement Gratuity in favour of the Petitioner without delay along with bank interest upon the said 1/4 th amount of Death-cum-Retirement Gratuity amounting to Rs.2,36,000/-;

(iv) Issue Rule calling upon the Respondents and each of them to show cause as to why appropriate writ/order shall not be issued to release the rest 1/4 th amount of Death-cum-Retirement Gratuity to the Petitioner along with bank interest thereon;

(v) Call for other records appertaining to this application;

(vi) After hearing the parties, be pleased to make the rule absolute;

(vii) Cost of the proceeding and incidental thereto;

(viii) Granting any other relief which may be deemed fit and proper; "

During hearing, Mr. Kohinoor N. Bhattacharyya, learned G.A submits that though averred by the petitioner that he had repaid the total amount, but the same could not be proved by him by

producing any sort of document and as per records of the department, Rs.25,000/- is still recoverable from him. To justify legality of such withholdment of gratuity, learned G.A. also referred a decision of Hon'ble Supreme Court in **Steel Authority of India Ltd. Vs. Raghbendra Singh & Ors., (2021) 18 SCC 272** wherein it was observed that penal rent for occupation of quarters beyond the specified period can be adjusted against the dues payable including gratuity. Mr. Dhar, learned Sr. Counsel in reply contends that the said Rs.25,000/- may be adjusted from the amount as kept withhold and rest amount may be immediately released.

In view of the above said submission of both sides, the respondent Nos.1 to 3 are hereby directed to adjust the said Rs.25,000/- from the withheld amount of Rs.2,36,000/- and the rest amount of Rs.2,11,000/- be released by respondent Nos.1 to 3 in favour of the petitioner within a period of 6(six) weeks from today.

With the aforesaid direction the writ petition is accordingly disposed of.

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

JUDGE

**SATABDI
DUTTA**

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