2026:THC:1453

HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.11 of 2025

Dr. Sumanta Chakrabarti, S/O Late Hiranmoy Chakrabarti, resident of 65, Hari Ganga Basak Road, opposite Melarmath State Bank, near Women Commission, Melarmath, PO-Agartala, PS-West Agartala, District-West Tripura, Pin-799001.

------ Petitioner(s)

Versus

1. **The Union of India, represented by the Secretary, Ministry of Human Resource & Development**, Government of India, Shastri Bhawan, New Delhi-110001.
2. **The National Institute of Technology Agartala (NITA),** Represented by its Registrar, PO & PS:- Jirania, District-West Tripura, Pin-799046.
3. **The Registrar, The National Institute of Technology Agartala (NITA)**, PO & PS:-Jirania, District- West Tripura, Pin-799046.
4. **The Director, The National Institute of Technology Agartala (NITA)**, PO&PS:- Jirania, District - West Tripura, Pin-799046.

------ Respondent(s)

For Petitioner(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv, Mr. Koomar Chakraborty, Adv, Mr. Agniva Chakrabarti, Adv.
For Respondent(s)	:	Mr. Bidyut Majumder, D.S.G.I., Mr. Somik Deb, Sr. Adv, Ms. Adwitiya Chakraborty, Adv.
Date of hearing	:	27.08.2026
Date of delivery of Judgment & Order	:	15.10.2026
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Heard learned Senior Counsel Mr. Purusuttam Roy Barman, assisted by Learned Counsel, Mr. Koomar Chakraborty

appearing on behalf of the petitioner, and also heard learned Senior Advocate Mr. Somik Deb, assisted by Learned Counsel, Mr. Agniva Chakrabarti appearing on behalf of NIT-respondent Nos. 2 to 4, and further heard learned D.S.G.I., Mr. Bidyut Mujumder appearing on behalf of the respondent No.1.

2. This writ petition is filed by the petitioner seeking the following relief/ reliefs:

> **i. Issue Rule, calling upon the Respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, directing them, to transmit the records, lying with them, for rendering substantive and conscionable justice to the Petitioner, and for quashing/setting aside the impugned Letters dated 16.04.2024, 29.08.2024 & 04.09.2024 (Annexure-11, 14 & 15 respectively supra);**
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> **ii. Issue Rule, calling upon the Respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, mandating/directing them, to act in strict conformity with the directions, contained in the Judgment & Order dated 31.05.2021 (Annexure-3 supra), passed in WP(C) No.1298 of 2017 by the Learned Single Judge of this Hon'ble High Court, read with the observations, made in the Judgment & Order (Oral) dated 02.08.2023 (Annexure-4 supra), passed in WA No.200 of 2021 by the Hon'ble Division Bench of this Hon'ble High Court, as affirmed vide the Order dated 14.08.2024 (Annexure-13 supra), passed in SLP(Civil) Diary No.31104/2024 by the Hon'ble Supreme Court of India, thereby depositing the actual Prorata Pension Contribution of Rs.38,71,637/- and Leave Salary of Rs.32,86,536/- with the Petitioner's current employer (i.e., Maharaja Bir Bikram University, Agartala) and make payment of Rs.13,44,252/- on account of Gratuity to the Peitioner, alongwith Interest thereon (due to belated payment thereof);**
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> **iii. Call for the records, appertaining to this Writ Petition;**
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> **iv. After hearing the parties, be pleased to make the Rule absolute in terms of (i) & (ii) above;**
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> **v. Costs of and incidental to this proceeding**
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> **vi. Any other Relief(s) as to this Hon'ble High Court may deem fit and proper;**
>
> **AND**
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> **For this gracious act of kindness the humble petitioner abovenamed shall as in duty bound ever pray.**

3. Taking part in the hearing, Learned Senior Counsel first of all drawn the attention of the Court that the petitioner is

presently serving as Registrar, Maharaja Bir Bikram University, Agartala. Initially, the petitioner was an employee of Tripura State Pollution Control Board under the Department of Science, Technology & Environment, Government of Tripura, and joined therein on 16.03.1996. Thereafter, the petitioner was appointed to the post of Deputy Registrar (Administration), National Institute of Technology Agartala (NITA for short), and joined therein on 12.08.2011. After that, in the year 2017, i.e. on 01.03.2017, he joined as Registrar, MBB University, Agartala. It was further submitted by Learned Senior Counsel that pursuant to an open advertisement dated 06.09.2010, published by NITA, vide an Order of Appointment dated 21.07.2011, the petitioner was appointed to the post of Deputy Registrar, NITA and he joined in the said post on 12.08.2011. And after joining, the petitioner had been discharging his duties and responsibilities with due integrity, sincerity and diligence and to the utmost satisfaction of the higher Authority, and thereafter, the NITA vide memo dated 04.12.2012 issued by Director, NITA *[Annexure-1]*, absorbed and confirmed him in the post of Deputy Registrar (Administration), NITA with effect from the date of his joining, i.e. 12.08.2011 providing that he will get all pensionary benefits, leave, etc in counting his earlier service. Thereafter, the Director, NITA issued one memorandum on 23.07.2013 *[Annexure-2]* mentioning that the services of the petitioner shall be governed by the CCS (Pension) Rules, 1972 and CCS (Leave) Rules, 1972, and he is entitled to

get the benefits of counting his past services with effect from 16.03.1996 to 11.08.2011 for all purposes of leave and pensionary benefits including Gratuity, etc without realization of pensionary or leave salary contribution of his previous employer.

Learned Senior Counsel thereafter submitted that as the NITA refused to provide service benefits to him so against the arbitrary action of the respondents-NITA, the petitioner initially filed one writ petition bearing No.WP(C) 1298 of 2017 before this High Court and a coordinate bench of this High Court allowed the said writ petition by a judgment and order dated 31.05.2021 *[Annexure-3]*.

Challenging the said judgment, the respondents preferred one Intra-Court appeal before the Division Bench of this High Court bearing No.WA 200 of 2021 and this High Court by Judgment and Order dated 02.08.2023 *[Annexure-4]* dismissed the said appeal preferred by the respondents. It was further submitted that after passing of the said Judgment and Order dated 02.08.2023, the petitioner served one legal notice on 11.09.2023 *[Annexure-5]* to the respondents for compliance of the Judgment and Order dated 02.08.2023. After receipt of the notice, NITA by letter dated 16.10.2023 *[Annexure-6]* asked the petitioner to arrange for submission of the authenticated statement of the capitalized value of his pension and gratuity from his previous employer i.e. Tripura State Pollution Control Board to process the matter further. It was further submitted that after

passing of the judgment and order dated 02.08.2023, the petitioner further submitted a letter dated 26.09.2023 and thereafter a reminder letter dated 04.10.2023 to his employer, i.e. to the Chairman, Tripura State Pollution Control Board praying for supplying of an authenticated Statement of the capitalized value of his pension and gratuity accrued during his service tenure thereat. Copies of the letters dated 26.09.2023 and 04.10.2023 are annexed as *Annexure-7*. Thereafter, vide letters dated 18.10.2023, 15.12.2023, the petitioner repeatedly requested the respondents to comply with the directions contained in the Judgment and Order dated 31.05.2021 and Judgment and Order dated 02.08.2023 *[Annexure-3 and 4]*, but in vain. Thereafter, by a letter dated 12.01.2024, the Regional Provident Fund Commissioner, Ministry of Labour and Employment, Government of India supplied a detailed EPF statement of the petitioner to the Member Secretary, Tripura State Pollution Control Board. After that, the Member Secretary, Tripura State Pollution Control Board forwarded the said statement under caption "Furnishing of authenticated statement in respect of Capitalized value of pension and gratuity and transfer of other retirement benefits-reg" to the petitioner. Thereafter, by another letter dated 26.02.2024 the petitioner submitted the same to the respondents praying for implementation of the Judgment and Order dated 31.05.2021 and Judgment and Order dated 02.08.2023 *[Annexure-3 and 4 supra]*. But the respondents, inspite of receipt of communications did not

comply with the same. Thereafter, the petitioner submitted another letter dated 02.04.2024 *[Annexure-10]*, informing the respondents that if no action is taken, he will be under obligation to file contempt petition. After that, the Registrar, NITA issued a letter dated 16.04.2024 denying the petitioner to grant pension and gratuity on the premise that the aforesaid authenticated statement was not proper. Furthermore, by the said letter dated 16.04.2024 *[Annexure-11]* it was further informed to the petitioner that the other reliefs as granted by this Court viz. fixation of pay, refunding of GPF contribution with 7% interest and recording acquisition of PhD degree in his service book were under process. But even after clear and unambiguous direction of this High Court, directing the respondents to pay litigation cost of Rs.25,000/- to the petitioner, the respondents did not make any payment thereof. Even in the communication dated 16.04.2024 *[Annexure-11 supra]*, the respondents did not even utter a word in connection therewith. Thereafter, again by letter dated 30.04.2024, the petitioner requested the respondents to comply with the direction contained in the Judgment and Order dated 31.05.2021 and Judgment and Order dated 02.08.2023, but inspite of that no action was taken. Thus, the respondents willfully abstained from complying with the same.

After that, the petitioner filed one contempt petition bearing No.Cont. Cas(C) 39/2024 before this High Court on 31.05.2024 and in pursuance of filing of the said contempt

petition, the respondents suddenly sprung into action and decided to prefer a Special Leave Petition before the Hon'ble Supreme Court of India against the judgment of Division Bench of the High Court, but by order dated 14.08.2024, the SLP filed by the respondents-NITA was dismissed *[Annexure-13]*.

According to Learned Senior Counsel for the petitioner, all the legal remedies have been exhausted by the respondents. In the meantime, during the pendency of contempt petition, the respondents by issuing two separate communication dated 29.08.2024, 04.09.2024, *[Annexures-14 and 15]*, partly complied with some of the directions, but refrained from complying with the substantial portion of the relief as granted by this High Court affirmed by the Hon'ble Supreme Court of India. Thereafter, in pursuance of the order of this Court passed in Cont. Cas(C) 39/2024, the petitioner further made reference to the respondents, but the respondents by letter dated 04.09.2024, *[Annexure-15 supra]* deliberately refuse to release the relevant service benefits as directed by this High Court. It was further submitted that the respondents have derogated the authority of the Constitutional Courts with *malafide* intention by calculating belligerently the petitioner's pro rata pension and leave salary w.e.f. 12.08.2011 on a self-devised basis but while giving the portion of Leave Salary and Pension Contribution, the respondents did not follow the directions of this Court as affirmed by the Hon'ble Supreme Court of India. It was further submitted by

Learned Senior Counsel that this Court directed the respondents to count the past service of the petitioner w.e.f. 16.03.1996, in accordance with the respondent's memorandum dated 23.07.2013 *[Annexure-2 supra]* which was verified, authenticated and recorded by the successive Directors of NITA but the respondents have calculated the pro rata pension and leave salary of the petitioner with effect from 12.08.2011 on unsustainable basis, just to evade the liabilities of the contempt proceeding before this High Court.

4. It was further submitted that the Registrar, NITA issued the impugned letter dated 04.09.2024 *[Annexure-15 supra]* to the petitioner towards pro rata pension contribution of Rs.5,76,834/-, leave salary contribution Rs.3,96,815/- for the period served by the petitioner at NITA i.e., for the period stretching from 12.08.2011 to 28.02.2017, by Draft No.650375, dated 04.09.2024 for an amount of Rs.9,67,694/- sheerly deviating from the direction of the High Court as affirmed by Hon'ble the Supreme Court of India to provide pro rata pension contribution and leave salary to the petitioner with effect from 16.03.1996. It was further submitted that while calculating the pro rata pension contribution and leave salary, the respondents did not calculate the period of service with effect from 16.03.1996 and thus did not deposit the pro rata contribution of pension and leave salary for the period from 16.03.1996 to 11.08.2011. It was further submitted that the respondents ought to have calculated

the leave salary and pension contribution of the petitioner in stern tune with FR 116 and FR 117. It was further submitted that the last monthly pay of the petitioner was Rs.1,23,100/- as per NITA office order dated 29.08.2024 on the date of leaving NITA for MBB University on lien for two years *[Annexure-18]*. It was also submitted that since the last pay of the petitioner was Rs.1,23,100/- in accordance with the provisions of FR 116 and FR 117 and the said last pay ought to have been the basic pay for calculation of pro rata pension and leave salary for the entire service period of the petitioner, but the respondents deliberately and willfully calculated the last pay wrongly in the basic pay column for determination of leave salary and pro rata pension contribution. Thus, actual pro rata pension contribution would comes to Rs.38,71,637/- and leave salary contribution would comes to Rs 32,86,536/-, which is to deposited to the MBB University, and calculated sheets were marked as *Annexures-19 and 20*. The petitioner was further entitled to Gratuity and as per rules it comes to Rs.13,44,252/-, which is to be paid by the respondents to the petitioner. The calculation sheet for Gratuity is marked as *Annexure-21*. So, as the grievance of the petitioner was not addressed by the respondent-NITA, the petitioner has again filed this writ petition.

5. The respondents-NITA have contested the writ petition by filing counter affidavit. In para Nos.19 to 38 of the counter affidavit, the respondents-NITA have stated as under:

"19. That, with reference to the statements/averments made in para 3.17 of the writ petition, the answering respondents humbly submit that NIT Agartala (NITA) has requested to the Tripura State Pollution Control Board(TSPCB) and the petitioner to arrange for submission of capitalized value of the pension and gratuity in order to expedite the disposal of the matter in accordance with the directives of the Hon'ble Court.

20. That, the statements/averments made in para 3.17.1 of the writ petition, are false and hence denied and disputed by the answering respondents as because litigation cost of Rs. 25000/- has already been paid to the petitioner vide letter dated 29.08.2024.

Copy of letter dated 29.08.2024 and Money receipt are annexed herewith and marked as Annexure- R/6.

21. That, with reference to the statements/averments made in para 3.18 of the writ petition, the answering respondents offer no comments since those are matter of records. However, it is submitted that the answering respondents have already clarified in their letter dated 16.04.2024 to the petitioner that, in accordance with the letter dated 16.02.2024 from the petitioner's previous employer and the EPFO letter dated 12.01.2024 that was received by NIT Agartala, which indicates that petitioner was subscriber of EPF and not GPF claimed by the petitioner. Thus capitalized value of pension and gratuity from previous employer of the petitioner is not available with NIT Agartala as on date.

22. That, the statements/averments made in para 3.19 of the writ petition, are false, hence denied and disputed by the answering respondents. It is humbly submitted that the respondent (i.e. NITA) has already complied with the direction of Hon'ble High Court of Tripura and communicated the same vide letter dated 29.08.2024 as per the details given below:

a. The entry of obtaining degree of Ph.D in service book has been complied based on the judgment of Hon'ble High Court of Tripura in WP(C) 1298/2017.

b. Past service has been considered and accordingly pay up-gradation/protection has been given.

c. An amount of Rs. 14,75,078/- and Rs. 30,718/ towards GPF & GSLI Contribution respectively has been credited in Institute Account under Pension and Retirement Benefit Fund on 07.05.2024 from LICI, Silchar vide GSCA No. 6535 and vide GSLI Master Policy No. 65210.

d. Litigation cost of Rs. 25000/- already paid to the petitioner vide our letter dated. 29.08.2024.

e. Leave salary contribution of petitioner has been calculated @11% of Basic Pay in Pay Level drawn in foreign service vide Appendix-2 of Deputation and Foreign Service rules during his tenure at NIT Agartala from 12.08.2011 to 28.02.2017.

f. Capitalized value of pension and gratuity from previous employer of the petitioner with NIT Agartala, the pro-rata calculation has been made

(incompliance with WP (C) of 1298 of 2017) based on his tenure at NIT Agartala from 12.08.2011 to 28.02.2017 and the rates of monthly contribution expressed as percentage mentioned in Deputation and Foreign Service rules vide GIO(2) & GIO(3) Appendix-2.

Copy of letter dated 29.08.2024 is annexed herewith and marked as annexure-R/7.

Copy of due-drawn statement is annexed herewith and marked as annexure-R/8.

Copy of money receipt is annexed herewith and marked as annexure-R/9.

Copy of leave salary calculation is annexed herewith and marked as annexure-R/10.

Copy of rule provisions is annexed herewith and marked as annexure-R/11.

Copy of Deputation and Foreign Service rules vide GIO(2) is annexed herewith and marked as annexure-R/12.

Copy of Deputation and Foreign Service rules vide GIO(3) Appendix-2 is annexed herewith and marked as annexure-R/13.

23. That, with reference to the statements/averments made in para 3.20 of the writ petition, the answering Respondents humbly submit that the directions of Hon'ble Court has been complied.

24. That, with reference to the statements/averments made in paras 3.21 and 3.22 of the writ petition, the answering respondents offer no comments since those are matter of records.

25. That, the statements/averments made in paras 3.23 of the writ petition, are denied and disputed by the answering respondents. It is humbly submitted that the respondents have already clarified in their letter dated 16.04.2024 to the petitioner that, in accordance with the letter dated 16.02.2024 from the petitioner's previous employer and the EPFO letter dated 12.01.2024 that was received by NIT Agartala, which indicates that petitioner was subscriber of EPF and not GPF claimed by the petitioner. Thus capitalized value of pension and gratuity from previous employer of the petitioner is not available with NIT Agartala as on date. Therefore, due to lack of receipt of the same from the previous employer of the petitioner, NITA is not in a position to deposit the capitalized value of pension and gratuity to the present employer of the petitioner. i.e. MBB University. So the contention of the petitioner is false and fabricated.

26. That, the statements/averments made in paras 3.27 of the writ petition, are denied and disputed by the answering respondents. It is submitted that the answering respondents strongly and stoutly deny the contention made by the petitioner.

a. Respondents have entered PhD degree in Service Book in compliance with the Judgment passed in WP(C) 1298 of 2017

b. Respondents also considered the past service of the Petitioner and pay protection/up-gradation has been extended to the petitioner.

c. An amount of Rs. 14,75,078/- and Rs. 30,718/- towards GPF & GSLI Contribution respectively has been has been paid to the petitioner which was received from LICI, Silchar vide GSCA No. 6535 and vide GSLI Master Policy No. 65210.

d. Interest @ 7% from date of Credit has been paid adding GPF and GSLI amount, through Demand Draft No. 650365 dated 29.08.2024 to the petitioner.

e. An amount of Rs. 25,000/- has been paid as Cost of litigation to the Petitioner.

27. That, with reference to the statements/averments made in para 3.28 of the writ petition, the answering respondents offer no comments since those are matter of records.

28. That, the statements/averments made in para 3.29 of the writ petition, are denied and disputed by the answering respondents.

29. That, with reference to the statements/averments made in paras 3.30 and 3.31 of the writ petition, the answering respondents offer no comments since those are matter of records.

30. That, the statements/averments made in para 3.32 of the writ petition, are strongly denied and disputed by the answering respondents. It is humbly submitted that respondents have entered PhD degree in Service Book in compliance with the Judgment passed in WP(C) 1298 of 2017. Respondents also considered the past service of the Petitioner and pay protection. An amount of Rs. 14,75,078/- and Rs. 30,718/- towards GPF & GSLI Contribution respectively has been credited in Institute Account under Pension and Retirement Benefit Fund on 07.05.2024 from LICI, Silchar vide GSCA No. 6535 and vide GSLI Master Policy No. 65210. Interest from date of Credit has been paid adding GPF and GSLI amount, through Demand Draft No. 650365 dated. 29.08.2024. An amount of Rs. 25,000/ has been paid as Cost of litigation to the Petitioner.

31. That, with reference to the statements/averments made in paras 3.33 of the writ petition, the answering respondents submit that the calculation of total leave salary has been enclosed herewith.

32. That, the statements/averments made in paras 3.34 of the writ petition, are false and hence denied and disputed by the answering respondents.

33. That, with reference to the statements/averments made in paras 3.35 of the writ petition, the answering respondents humbly submit that capitalized value of pension and gratuity has been calculated on the basis of documents receipt from previous employer of the petitioner.

34. That, the statements/averments made in paras 3.36 the writ petition, are strongly denied and disputed by the answering respondents. It is humbly submitted that the respondents have entered PhD degree in Service Book in compliance with the Judgment passed in WP(C) 1298 of 2017. Respondents also considered the past service of the Petitioner and pay protection. An amount of Rs. 14,75,078/- and Rs.30,718/- towards GPF & GSLI Contribution

respectively has been credited in Institute Account under Pension and Retirement Benefit Fund on 07.05.2024 from LICI, Silchar vide GSCA No. 6535 and vide GSLI Master Policy No. 65210. Interest from date of Credit has been paid adding GPF and GSLI amount, through Demand Draft No. 650365 dated. 29.08.2024. An amount of Rs. 25,000/- has been paid as Cost of litigation to the Petitioner.

35. That, with reference to the statements/averments made in paras 3.37 of the writ petition, the answering respondents humbly submit that capitalized value of pension and gratuity from his previous employer. Dues have been paid as per documents receipt.

36. That, with reference to the statements/averments made in paras 3.38 of the writ petition, the answering respondents humbly submit that the petitioner was asked to submit capitalized value of pension and gratuity from his previous employer, but the petitioner yet to submit the same till date.

37. That, the statements/averments made in paras 3.39 of the writ petition, are strongly denied and disputed by the answering respondents. It is humbly submitted that the respondents have entered PhD degree in Service Book in compliance with the Judgment passed in WP(C) 1298 of 2017. Respondents also considered the past service of the Petitioner and pay protection. An amount of Rs. 14,75,078/- and Rs. 30,718/- towards GPF & GSLI Contribution respectively has been credited in Institute Account under Pension and Retirement Benefit Fund on 07.05.2024 from LICI, Silchar vide GSCA No.6535 and vide GSLI Master Policy No. 65210. Interest from date of Credit has been paid adding GPF and GSLI amount, through Demand Draft No. 650365 dated. 29.08.2024. An amount of Rs. 25,000/- has been paid as Cost of litigation to the Petitioner.

38. That, the statements/averments made in paras 3.40, 3.41 and 3.42 of the writ petition, are strongly denied and disputed by the answering respondents. It is humbly submitted that the respondents have entered PhD degree in Service Book in compliance with the Judgment passed in WP(C) 1298 of 2017. Respondents also considered the past service of the Petitioner and pay protection. An amount of Rs. 14,75,078/- and Rs. 30,718/- towards GPF & GSLI Contribution respectively has been credited in Institute Account under Pension and Retirement Benefit Fund on 07.05.2024 from LICI, Silchar vide GSCA No. 6535 and vide GSLI Master Policy No. 65210. Interest from date of Credit has been paid adding GPF and GSLI amount, through Demand Draft No. 650365 dated. 29.08.2024. An amount of Rs. 25,000/- has been paid as Cost of litigation to the Petitioner. Petitioner was asked to submit capitalized value of pension and gratuity from his previous employer, but the Petitioner yet to submit the same till date."

6. It was further submitted that Tripura State Pollution Control Board was a necessary party for the decision of this writ petition, but the petitioner has not impleaded the said Tripura

State Pollution Control Board as party in this case, as such the same is liable to be dismissed.

7. However, at the time of hearing Learned Senior Counsel, Mr. Somik Deb appearing on behalf of the respondents-NITA referring para Nos.38 and 44 of the Judgment and Order dated 31.05.2021 in connection with case No.WP(C) 1298/2017 passed by this High Court submitted that in the said para No.38 it was mentioned that in the event of allowing the petitioner to get the Revision under the CCS (Pension) Rules, 1972, the petitioner is also liable to be deposit the capitalized value of pension and gratuity for the first service in accordance with the instruction contained in the office memorandum No.28/10/84-Pension Unit dated 29.08.1984 as referred in para No.7 of the office memorandum dated 11.06.2020, and it was further directed that the petitioner shall submit the authenticated statement in respect of capitalized value of pension and gratuity from his previous employer within a period of three months from the date of judgment, but that has not been complied with by the petitioner.

8. Further, referring the Judgment and Order dated 02.08.2023 in connection with case No.WA 200 of 2021 delivered by Division Bench of this High Court, Learned Senior Counsel, Mr. Deb submitted that although the Division Bench of this High Court dismissed the appeal filed by the respondents but the direction contained in para No.38 delivered by Learned Single Judge was upheld and until and unless the petitioner supplies the

authenticated statement in respect of capitalized value of pension and gratuity from his previous employer, he was not entitled to get any further benefit in this regard. However, in pursuance of the judgment delivered by the Learned Single Judge affirmed in appeal by the Division Bench, all the financial benefits have been released by the NITA in favour of the petitioner and as such, the present petitioner is not entitled to get any benefit in this writ petition and prayed for dismissal of this writ petition.

9. Learned D.S.G.I., Mr. Bidyut Majumder also reiterated the same submission made by Learned Senior Counsel, Mr. Deb appearing on behalf of the respondent-NITA and submitted that as all the financial benefits have been granted and released in favour of the present petitioner, as such, he is not entitled to get any further benefit in this writ petition and urged for dismissal of the same.

10. I have heard both the sides. Perused the writ petition along with the documents annexed by the petitioner as well as the counter affidavit and the relevant documents filed by the respondents, and also the Judgment and Order delivered by Division Bench of this High Court as well as the Judgment and Order delivered by Hon'ble the Supreme Court of India.

11. Since the subject matter of the writ petition has already been discussed in detail above, so the same needs no repetition. Admittedly, in this case the petitioner was serving under Tripura State Pollution Control Board for a certain period of

time and thereafter he joined in NITA as a Deputy Registrar (Administration) and served therein for a considerable period and after that he joined as Registrar, MBB University, Agartala, Tripura. Regarding initial designation and later designation of the petitioner, there was no dispute on record from the side of the respondents-NITA. The respondents-NITA also did not dispute his tenure of service under Tripura State Pollution Control Board, thereafter at NITA and after that, to the post of Registrar, MBB University, Agartala, Tripura.

12. Now, for the sake of convenience let us reproduce herein below the initial memorandum dated 04.12.2012 *[Annexure-1]* issued by Director, NITA:

> **No.NITA.2 (335-Estt)/2011/8516-19 04/12/2012**
>
> **MEMORANDUM**
>
> **In response to the National Institute of Technology Agartala ((NITA) offer of Appointment letter vide No. F.NITA.2(166-Estt)/11/2478-82 dated 21.07.2011 and being released by the Member Secretary, Tripura State Pollution Control Board under Department of Science, Technology & Environment, Government of Tripura vide Order No. F. 1(8) /TSPCB/96/3851-52 dated 11.08.2011 Sti Sumanta Chakrabarti S/O Sri Hiranmay Chakrabarti joined NITA as Deputy Registrar(Administration) on August 12,2011 (Forenoon) in the revised pay of PB-3 (Rs.15,600-Rs.39,100) GP-Rs.7600 on lien of one year from his parent department and the pay was protected counting his previous service from the date of joining in NITA w.e.f 12.08.2011. As per terms and condition of the offer of appointment Sri Chakrabarti has successfully completed one year probationary period.**
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> **Sri Chakrabarti is hereby absorbed and declared confirmed by the competent authority in the post of Deputy Registrar (Administration), NITA in the revised pay PB-3 (Rs.15,600-Rs.39,100) GP-Rs.7600. He will get all pensionary benefit, leave etc. in counting his earlier service subject to the availability of service book and other related documents.**
>
> **(Prof (Dr.) P. K. Bose)**
> **Director**
>
> **Copy to:**
>
> **1. PS to Director, NITA.**

2. Sri Sumanta Chakrabarti, Deputy Registrar(Administration), NITA.
3. The Member Secretary, Tripura State Pollution Control Board under Department of Science, Technology & Environment, Government of Tripura with a request to send the Service Book along with other service related papers of Sri Chakrabarti at an early date.
4. Assistant Registrar (Finance), NITA for information with a request to deduct monthly GPF subscription of Sri Chakrabarti @ Rs.6000/pm and deposit the same to his GPF account of NITA presently maintained by LICI from the salary month of December, 2012 onwards. The provident fund contribution so credited up to November, 2012 towards his account may be withdrawn from NITA account and deposit the same in to his LICI GPF account.

(Prof (Dr.) P. K. Bose)
Director

After that, the Director, NITA issued another memorandum on 23.07.2013 [Annexure-2], which is also reproduced herein below:

No.F.NITA.2(335-Estt)/2011/4204-05 July 23 2013.

MEMORANDUM

Shri Sumanta Chakrabarti, Deputy Registrar (Administration), NIT Agartala, was declared absorbed and confirmed in the post of Deputy Registrar (Admn) in NIT Agartala from the date of joining in NIT Agartala w.e.f. 12-08-2011 protecting his pay and counting his earlier service vide Memo No.F.NITA.2(335-Estt)/2011/8516-19 dated 04-12-2012.

2. The service book and other related documents in respect of Shri Chakrabarti have been received from his previous employer. The services of Shri Chakrabarti shall governed by CCS (Pension) Rules 1972 and CCS (Leave) Rules, 1972 and he is entitled to have the benefits counting his past services w.e.f. 16/3/1996 to 11/8/2011 for all purposes of leave and pensionery benefits including gratuity etc. without realisation of pensionery or leave salary contribution from his previous employer vide Government of India decision NO.5 below Rule 14 of CCS (Pension) Rules, 1972.

(Dr. A.K. Chakraborty)
Director (i/c)

Copy to:
1. Shri Sumanta Chakrabarti, Deputy Registrar (Admn), NIT Agartala, for information.
2. The Asst. Registrar (Fin), NITA, for information and necessary action.

Director (i/c)

So, from the aforesaid memorandum, it appears that the present petitioner was absorbed and confirmed in the post of Deputy Registrar (Administration), NITA, from the date of joining in NITA, i.e., w.e.f. 12.08.2011 protecting his pay and earlier service. It was further ensured in the said memorandum that the services of the petitioner shall be governed by CCS (Pension) Rules, 1972 and CCS (Leave) Rules,1972 and he will be entitled to have the benefits counting his past services w.e.f. 16.03.1996 to 11.08.2011 for all purposes of leave and pensionary benefits including gratuity, etc without realization of pensionary or leave salary contribution from his previous employer vide Government of India decision No.5 below Rule 14 of CCS (Pension) Rules, 1972.

13. From the language of the said memorandums, it is crystal clear that once he absorbed in NITA, his previous employer i.e. Tripura State Pollution Control Board had no role regarding further governing his service. So, whatever benefit the petitioner will accrue should be paid by NITA. The said memorandum has not been nullified by NITA at any point of time.

14. In course of hearing, Learned Senior Counsel for the respondents-NITA did not submit anything challenging the said memorandums dated 04.12.2012 *[Annexure-1] and* 23.07.2013 *[Annexure-2]*, and those memorandums till today have not been challenged. Rather both the memorandums attained finality. Even

NITA also did not challenge those memorandums by filing any separate writ petition.

15. However, as the service benefit was not extended to the petitioner, so, he was compelled to file writ petition in the year 2017 which was numbered as WP(C) 1298 of 2017 and a coordinate bench of this High Court by Judgment and Order dated 31.05.2021, allowed and disposed of the writ petition in favour of the present petitioner.

In para Nos.38, 39, 40, 41, 44 and 48 of the said Judgment and Order, the coordinate bench of this High Court made the following observations:

> **"38. Having read the decision of the Punjab and Haryana High Court with para-7 of the Office Memorandum dated 11.06.2020, this Court is persuaded to declare that the said decision to not allow the petitioner to have pension under the CCS(Pension) Rules, 1972 and to maintain the account under the Central Provident Fund (Central Services) Rules, 1960 is arbitrary and unsustainable. In the event of allowing the petitioner to get the Revision under the CCS (Pension) Rules, 1972, the petitioner is also liable to deposit the capitalized value of pension and gratuity for the first service in accordance with the instruction contained in the office memorandum No.28/10/84-Pension Unit dated 29.08.1984 as referred in para-7 of the Office Memorandum dated 11.06.2020. On deposit of the said amount, the respondents shall be under obligation to allow the pro-rata pension to the petitioner in terms of the CCS (Pension) Rules, 1972 within a period of six months from the date of the deposit of capitalized value of pension and gratuity of the past services. For this purpose, the petitioner shall submit to the respondents, particularly to the respondent No.3, the authenticated statement in respect of capitalized value of pension and gratuity from his previous employer within a period of three months from the date of the judgment. The respondents may also give the pension and gratuity after deduction of the capitalized value of the pension and gratuity of the past service without asking the petitioner to deposit the said value in terms of the above.**
>
> **39. Thus, for the reasons assigned above, the petitioner is entitled to the benefit of pension under CCS(Pension) Rules, 1972 and for the same reason he was entitled to maintain the Central Provident Fund. The benefits granted to the petitioner by the**

memorandum dated 04.02.2012 was regular but the conditions were not properly delineated. There was no illegality as has been declared later on by the respondents.

40. This Court is not interested to explore whether the Director-in-charge had any power to take any decision or issue the memorandum dated 23.07.2013. The extent of power of the Director-in-charge has not been demonstrated by the respondents. In the usual course, the person-in-charge of the Director may exercise all the powers unless prohibited by the rules or the executive order/s. Moreover, by the doctrine of necessity, if some decisions are to be taken by the person-in-charge for the administrative reasons, such decision cannot be stated by the successor as without authority, unless, of course, manifest and patent illegality is attributed to such decision. In the present case, as it has been observed, the court is not confronted with a case of that nature.

41. On the issue of denying of the up-graded pay scale in PB-4 with GP of Rs.8,700/- on completion of five years of service in the pre-revised pay scale of Rs.12,000-18,300/- or in the revised pay of PB-3 with GP of Rs.7,800/-, the respondents have stated that the petitioner lacks in qualification as he had no post-graduate degree. In this regard, the petitioner has referred to a communication of MHRD dated 02.11.2017 addressed to the Secretary, University Grants Commission. The relevant part of the said communication reads as follows:

> **"The pay of all incumbent Deputy Registrar/Deputy Finance Officer/Deputy Controller of Examination, who are presently in Pay Band of Rs.15,600-39,100/- with Grade Pay of Rs.7,600/-, shall be fixed at the appropriate cell in Level 12 of the Pay Matrix in accordance with guidelines issued by the Ministry of Finance, based on the recommendation of 7th Central Pay Commission, as the case may be. The pay of all those who have completed 5 years of service as Deputy Registrar/Deputy Finance Officer/Deputy Controller of Examination and are presently in pre-revised pay scale of Rs.37,400-67,000/- with Grade Pay of Rs.8,700/- shall be fixed at the appropriate cell in Level 13 of the Pay Matrix in accordance with the guidelines issued by the Ministry of Finance, based on the recommendation of 7th Central Pay Commission, as the case may be."**

The said communication refers to the upgradation to the higher pay with higher grade pay. It clarifies the earlier approach. Earlier approach as referred by the respondents here was erroneous as inasmuch as in the same grade or post on the basis of the educational qualification, there cannot be two different scales as that would contravene Article 14 read with Article 39(d) of the Constitution of India subject to certain conditions [see Harbans Lal versus State of H.P. : (1989) 4 SCC 459] which enshrine the constitutional goal of equal pay for equal work.

44. Arrears pay that would accrue in favour of the petitioner for fixing his pay in the Pay Band of Rs.37,400-67,000/-(PB-4) with Grade Pay of

> **Rs.8,700/- shall be paid to the petitioner within a period of three months from today. So far the question of subscribing GPF is concerned, for the subsequent appointment of the petitioner as the Registrar of M.B.B. University w.e.f. 01.03.2017, there will be no direction to grant the petitioner the benefit of GPF. Mr. Bhowmik, learned counsel for the petitioner has urged this Court [reflected in the written note] for directing the respondents to release the petitioner's contribution to GPF with interest. The respondents are, in the emerged circumstances, directed to refund the petitioner's contribution to GPF within a period of three months from today with interest @ 7% as the respondents were under obligation to refund the said money when they had decided that the petitioner will not get the benefit of GPF, though according to this Court, the petitioner was entitled to.**
>
> **48. The petitioner has raised a question on estoppel based on promise. According to him, the respondents ought not have resiled from their promise to the serious jeopardy of the petitioner as the petitioner had altered his position irreversibly as his lien was recalled on his confirmation in the post of the Deputy Registrar (Administration) in NIT Agartala. The petitoner was extended the benefit of pension under CCS (Pension) Rules, 1972 and GPF along with his confirmation. Till then the lien was alive. On confirmation, when the petitioner terminated the lien, those benefits were suddenly recalled on the analogy as discussed elaborately before. In this regard, this Court has observed that there had been no change in law and there had been no contravention of any law though the veiled accusation made against the petitioner is that the petitioner had manipulated the process. On a serious scrutiny of the records, this Court did not find even trace of manipulation by the petitioner nor the materials were placed in the proceeding. Making wild allegation without foundation is wholly unfair. Fairness is an inseverable component of justice. The State or its authority cannot embark on any action based on hypothesis and on in-appropriate consideration of law.**
>
> **Having observed thus, the writ petition stands allowed to the extent as indicated above. The respondents shall pay a sum of Rs.25,000/- as cost of litigation to the petitioner. Such cost shall be paid within a period of 3 (three) months from the date of judgment.**
>
> **Records as produced by the respondents be returned forthwith, under a sealed cover."**

On perusal of the aforesaid Judgment and Order, it appears that Learned Single Judge has affirmed the memorandums dated 04.12.2012 and 23.07.2013 *[Annexures-1 and 2 respectively]* by the said judgment.

16. However, being dissatisfied, the respondents-NITA challenged the said Judgment and Order before the Division Bench

of this High Court and by Judgment and Order dated 02.08.2023 in connection with W.A. No.200 of 2021, the Division Bench dismissed the writ appeal affirming the Judgment and Order dated 31.05.2021 and order of correction dated 21.06.2021 in connection with WP(C) No.1298 of 2017 passed by the Learned Single Judge. In para Nos.10 and 11, the Division Bench of this High Court made the following observation:

> **"10. Admittedly, memorandum No.NITA.2(335-Estt)/2011/8516-19 dated 04.12.2012 and memorandum No.F. NITA. 2(335-Estt) 2011/4204-05 dated July, 23rd 2013 issued by the Director, NITA clearly indicates that the past service of the respondent was taken into consideration and benefits were extended to the respondent herein basing on the service record which would be made available.**
>
> **In the memorandum dated 23rd July issued by the Director(I/C) NITA it is mentioned that "Sumanta Chakraborty, Deputy Registrar (Administration) NIT Agartala was declared absorbed and confirmed in past of Deputy Registrar (Admin) in NIT Agartala from date of joining in NIT Agartala w.e.f. 12.08.2011 protecting his pay and counting his earlier service……". Further in the same memorandum it is stated that "….. he is entitled to have " the benefits counting his past services w.e.f. 16/03/1996 to 11/8/2011 for all purpose of leave and pensionary benefits including gratuity etc….". So, subsequent to his earlier appointment in 2011, he was absorbed into NITA as Deputy Registrar (Administration) and the benefits have been extended. Accordingly to their own memorandum, the respondent herein is entitled to pension under the Old pension scheme to which he has already given his option and he is entitled to the same.**
>
> **11. Per contra the appellants submit before this Court that since the petitioner has been appointed in NITA on 12.08.2011, the new pension schemes need to be made applicable. This Court is not inclined to appreciate the same, since the said aforementioned memorandums which are issued by the Director of NITA himself needs to be taken into consideration. In the event if the appellant-institution feels that the Director has committed an error, it is for them to take appropriate steps against the Director, if so desired, for issuing such proceedings. But at this juncture, it is not proper for this Court to decide the proceedings issued by the said Director are on per with the Rules."**

17. After that, so many representations were submitted by the petitioner for compliance of the Judgment and Order, but the

same was not complied with. So, the petitioner was compelled to file contempt petition before this Court, which was numbered as Cont. Cas(C) 39 of 2024, and a coordinate bench of this High Court disposed of the contempt petition by order dated 06.09.2024. The relevant portion runs as follows:

> **"To which, Mr. B. Majumder, learned Deputy SGI disputes and contends that the period during which the petitioner has not served with the respondents and where he was serving with the Pollution Control Board, this respondent is not liable for making any such payment. He has further placed on record compliance order dated 04.09.2024, a statement of proof of payment made to the petitioner and disputed the contention made by the learned senior counsel appearing for the petitioner.**
>
> **This Court without entering into the disputed question of facts, grants liberty to the petitioner to either issue a notice or representation to the concerned respondents by enclosing the statement of account i.e. the balance amount to which he is entitled to in terms of the order of the Court and on receipt of such notice or representation from the petitioner, the respondents shall decide the same in accordance with law within a period of two months from the date of receipt of his representation.**
>
> **In view of above, C.C. stands closed."**

18. Even after filing of the contempt petition, the same was not properly complied with, and in the meantime, the respondents-NITA moved to the Hon'ble Supreme Court of India, which was numbered as SLP (Civil) Diary No.31104 of 2024. The relevant portion of the order dated 14.08.2024 passed by Hon'ble the Supreme Court of India:

> **"Delay condoned.**
>
> **No case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India.**
>
> **The special leave petition is, accordingly, dismissed.**
>
> **Pending application(s), if any, shall stand disposed of."**

From the order of Hon'ble the Supreme Court of India, it appears that Hon'ble the Supreme Court dismissed the plea

taken by the respondents-NITA challenging the Judgment and Order delivered by this High Court. So, it appears that the Judgment and Order dated 31.05.2021 in WP(C) No.1298 of 2017 delivered by a coordinate bench of this High Court attained finality.

19. Surprisingly, even after passing order by Hon'ble the Supreme Court, the respondents-NITA did not comply with the directions passed by this High Court. Although during contempt proceeding they appeared before the Court with the plea that the Judgment and Order delivered by the Learned Single Judge was complied with, but factually NITA did not comply the judgment in letter and spirit. Rather a portion of financial benefits was extended to the present petitioner by NITA. At the time of hearing Learned Senior Counsel, Mr. Deb submitted that the Judgment and Order delivered by the Learned Single Judge has been complied with but in this regard in course of hearing nothing could be placed by showing any documentary evidence on record to substantiate the said submission.

20. Now, Learned Senior Counsel tried to draw the attention of the Court that in pursuance of para No.38 of the Judgment and Order delivered by Learned Single Judge, the petitioner did not submit the authenticated statement of capitalized value of pension and gratuity for the first service in accordance with the instruction contained in the memo dated 29.08.1984 but according to my considered view, this submission

was contrary to the memorandum dated 23.07.2013 issued by NITA *[Annexure-2]* because there was no such scope for any pension in the Tripura State Pollution Control Board.

21. So, after hearing both the sides and going through the relevant records, it appears that the respondents-NITA before this Court failed to satisfy the entitlement of the petitioner, as prayed for, in the writ petition and as such, in the considered opinion of this Court the petitioner is entitled to get relief in this writ petition.

22. In the result, the writ petition filed by the petitioner is hereby allowed. The respondents are directed to pay the amount as mentioned in para No.2 of the prayer portion of the writ petition within a period of 3 (three) months from the date of passing of this Judgment. However, if by this time, any payment is made towards the aforesaid heads to the petitioner that would be deducted from the amount to be paid by the NITA to the petitioner.

23. With this observation, the present writ petition stands disposed of.

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

JUDGE

MOUMITA DATTA
Digitally signed by MOUMITA DATTA
Date: 2026.10.16 15:22:26 +05'30'
Deepshikha