

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

WP(C) No.620 of 2025

Sri Tapan Debbarma, aged 61 years

Son of Late Ashwini Kumar Debbarma, Mukta Chandra Para, Khumlung,
District West Tripura, Pin 799045.

..... Petitioner(s)

- V e r s u s -

- 1. State of Tripura,**
Represented by the Chief Secretary, Government of Tripura in the GA (P&T) Dept., having office at Civil Secretariat, New Capital Complex, P.O. Kunjaban, Pin 799010, West Tripura.
- 2. Director General of Police,**
Government of Tripura, Home Department, having office at Fire Brigade Choumohani, Akhaura Road, Pin 799001, Agartala, West Tripura.
- 3. Commandant,**
2nd Tripura States Rifle, Having office at Bodhjungnagar, P.O. Bodhjungnagar, Agartala, West Tripura.
- 4. Principal Secretary,**
Government of Tripura GA (AR) Department, Having office at Civil Secretariat, New Capital Complex, P.O. Kunjaban, Pin 799001, Agartala, West Tripura.

.....Respondent(s)

For the Petitioner(s)	:	Mr. T.D. Majumder, Senior Advocate. Ms. S. Kaipeng, Advocate.
For the Respondent(s)	:	Mr. M. Debbarma, Addl. G.A.
Date of Hearing & delivery of Judgment and Order	:	26th March, 2026.
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER (ORAL)

Heard learned counsel of both sides.

[2] The petitioner went on retirement on 30.09.2024 on attaining the age of 60 years from the post of Commandant, 2nd Bn., TSR. However, prior to his retirement, he was placed on suspension w.e.f. 21.11.2017 due to registration

of a police case against him bearing No. Bodhjungnagar P.S. case No.50 of 2017 under Section 302 IPC and Section 27 of the Arms Act pursuant to which he was arrested on 22.11.2017. He is facing trial. It is the grievance of the petitioner that during continuance of the criminal proceeding he was not paid the enhanced subsistence allowance, even no provisional pension was released to him after he went on retirement and leave salary which was disbursed to him was calculated based on his subsistence allowance and not on the basis of his last pay before he was put under suspension. Another grievance of the petitioner is that though he went on retirement on 30.09.2024 but the amount under GPF account was released to him in a delayed manner on 20.12.2025 i.e. after more than one year though as per Rule 34 of General Provident Fund (Central Services) Rules, 1960, same is required to be paid on the date of retirement itself.

[3] Mr. T.D. Majumder, learned senior counsel representing the petitioner submits that neither the provisional pension was paid to the petitioner nor proper amount under leave encashment was also paid to him and even GPF amount was also disbursed to him in a belated manner. Moreover, subsistence allowance for four months i.e. for November, 2019, April, 2020, August, 2020 and February, 2022 were also not paid to him. In this regard, Mr. Majumder, learned senior counsel relies on an information furnished to the petitioner under RTI Act by the State Public Information Officer of the police department which shows that the subsistence allowance of those months were not paid to him on the ground that bill was not prepared due to non receipt of non-employment certificate. Mr. Majumder, learned senior counsel submits that showing a baseless reason, the subsistence allowance for those months were withheld by the department despite the fact that for other months also no such certificate was produced as the petitioner was in jail but despite the same, they disbursed the subsistence allowance for rest period. Learned senior counsel also prays for necessary interest for delayed payment of GPF amount.

[4] Mr. M. Debbarma, learned Addl. G.A. places the sanction order dated 07.02.2025 issued by Assistant Inspector General of Police and another Memorandum dated 06.12.2025 issued by the Deputy Secretary to the Government of Tripura before this Court. Learned Addl. G.A. referring to a file note related to this matter submits that it is true that the petitioner went on superannuation on 30.09.2024 during the period of his suspension and the Government in the GA (P&T) Department sanctioned leave salary for 300 days

and DGP, Tripura was requested to draw and disburse the leave salary of the petitioner. Thereafter, the Department calculated leave salary of the petitioner based on the subsistence allowance @ Rs.46,035/- plus dearness allowance of Rs.11,509/-. Mr. Debbarma, learned Addl. G.A. also refers a part of the note of said Department wherein referring to Chapter-2-Suspension-A Digest of Swamy's Compilation of CCS (CCA) Rules, 1965 submits that in case of Government servant who, while under suspension, is retired from service on attaining the age of superannuation before the termination of departmental or Court proceedings, the competent authority to grant leave may withhold whole or part of cash equivalent of earned leave if in the view of the authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings. Regarding release of provisional pension, Mr. Debbarma, learned Addl. G.A., referring to above said letter dated 06.12.2025 submits that provisional pension @ Rs.41,432/- with necessary dearness allowance have been disbursed to him covering the period w.e.f. 01.10.2024 to 31.12.2025.

[5] On consideration of the submissions of both sides, it appears from the last pay certificate issued to the petitioner (Annexure 7) that his basic pay was Rs.92,070/- as on November, 2017 before he was put under suspension on 22.11.2017. However, his subsistence allowance was calculated in the following manner:

Rate of Subsistence Allow.		Deduction	
Pay	46,035/-	P/ Tax	208/-
D.A. (20%)	11,509/-	GIS	450/-
HRA	3,000/-		
CA	400/-		
Total	60,944/-	Total	958/-

[6] Thus, it also appears that when his both leave encashment and provisional pension were calculated, same were calculated based on the amount payable to him as subsistence allowance and not on the basis of his last pay as was drawn prior to his suspension.

[7] As per Rule 65 of Central Civil Services (Pension) Rules, 1972, the Audit Officer shall authorize the payment of provisional pension not exceeding maximum pension which would have been admissible on the basis of the qualifying service upto the date of retirement of the Government servant, or if

he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension. The relevant Rule 65 (1)(a) is quoted hereunder:

“65. Provisional pension where departmental or judicial proceedings may be pending.

(1) (a) In respect of a Government servant referred to in sub-rule (4) of rule 9, the Audit Officer shall authorize the payment of provisional pension not exceeding the maximum pension which would have been admissible on the basis of the qualifying service upto the date of retirement of the Government servant, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension.”

[8] Therefore, as per above said provision, the Department is under obligation to give him the provisional pension calculating his pay to which he was entitled before he was placed under suspension and such qualifying service will be calculated immediately preceding the date on which he was placed under suspension. Admittedly, the present petitioner went on superannuation while he was under suspension.

[9] Similarly, as per Rule 35 of the Tripura State Civil Services (Leave) Rules, 1986, the leave encashment will be calculated as per sub-rule (2)(b) and sub-rule (3) of Rule 35 of said Rules, which are as follows:

“35. Leave/Cash Payment in lieu of leave beyond the date of retirement or quitting of service

.....

(2) (a)

(b) The cash equivalent under clause (a) shall be calculated as follows and shall be payable in one lump sum as a one-time settlement. No House Rent Allowance or City Compensatory Allowance shall be payable:

Pay admissible on the date of retirement plus dearness allowance admissible on that date.	Number of days of utilized earned leave at credit on the date of Retirement subject to a maximum of 300 days.
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Cash equivalent= 30 X

(3) A Government servant, who retired from service on attaining the age of retirement while under suspension, shall become eligible for the benefit of cash equivalent of earned leave that was at his credit on the date of his retirement calculated in the manner provided in clause (b) of sub-rule (2), on conclusion of proceedings against him, if the authority competent to reinstate him in service holds that the suspension was wholly unjustified.”

[10] As per sub-rule (3), the Department has the authority to withhold the leave encashment if the concerned employee is under suspension on the date of retirement and on conclusion of the proceeding if he is reinstated in service and it is found that suspension was wholly unjustified, such leave encashment benefit can be released in his favour but, in above said Rules, there is no mention that calculation of leave encashment can be done on the basis of subsistence allowance. If during suspension period, the Department has decided to sanction and release the leave encashment benefit to him, obviously the calculation thereof will be on the basis of his last pay. Therefore, this Court finds valid grounds in support of the grievances of the petitioner that his provisional pension as well as leave encashment should be calculated on the basis of last pay drawn by him prior to he was put under suspension and there is no scope for making such calculation on the basis of subsistence allowance.

[11] So far GPF amount is concerned, the petitioner has placed a copy of his bank statement under Annexure 1 of his rejoinder affidavit which shows that the amount payable under GPF account was released to him on 20.12.2025 though as per Rule 34(3)(iii) of General Provident Fund (Central Services) Rules, 1960, the amount is required to be paid on the date of the retirement of a Government employee but here delayed disbursement has been made. Regarding the grievance of non-payment of subsistence allowance for four months as indicated earlier, there is no denial of the same from the side of respondents in this regard, rather their statement furnished under RTI Act itself justify the claim.

[12] In view of above said discussion, the writ petition is allowed with the following directions:

(i) The respondents shall calculate the leave encashment benefit and the provisional pension of the petitioner on the basis of his last basic pay drawn as per Rules just before he was placed under suspension and arrears, if any, shall be paid to the petitioner along with interest @ 7% per annum thereupon computed from the date of his retirement till payment is made.

(ii) The respondents will pay interest @ 7% per annum upon the amount paid to the petitioners as benefit under GPF w.e.f. the date of his retirement till payment is made.

(iii) Subsistence allowance of above said four months i.e. November, 2019, April, 2020, August, 2020 and February, 2022 will also be paid.

(iv) All the arrears shall be paid positively within two months with interest as awarded from the date of submission of an undertaking by the petitioner that if as a result of final conclusion of the departmental proceeding, he is required to return any amount to the Department, he will do so.

The writ petition is accordingly disposed of.

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

JUDGE

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