

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.381 of 2025

Shri Subhrajit Das,

Son of Lt. Gopal Chandra Das,

R/o- 65/3 H.G.B Road, Opposite to SBI Main Branch, Melarmath Paradise
Chowmuhani, Agartala, Dist- West Tripura, Pin- 799001.

.....Petitioner(s).

Vs.

1. The State of Tripura,

To be represented by the Secretary, Health and Family Welfare Department, Govt.
of Tripura, New Secretariat Complex, Kunjaban, New Capital Complex, Agartala,
West Tripura, Pin- 799010.

2. The Director,

Directorate of Health Services, Govt. of Tripura, Health Directorate Building, 1st
Floor, Pandit J.N. Complex, Agartala, West Tripura, Pin- 799010.

**3. The Medical Superintendent, O/o the Medical Superintendent, IGM Hospital,
Govt. of Tripura, Agartala West Tripura, Pin- 799001.**

**4. The Accountant General (A & E), Govt. of Tripura, Kunjaban, Agartala West
Tripura, Pin- 799006.**

**5. The Senior Accounts Officer, O/o the Accountant General (A & E), Tripura,
Agartala, Pin- 799006.**

**6. The Secretary, Finance Department, Govt. of Tripura, Agartala, New Secretariat
Building, New Capital Complex, Kunjaban, P.S- New Capital Complex, Agartala,
West Tripura, Pin- 799010.**

.....Respondent(s).

For Petitioner(s)	: Mr. Purusuttam Roy Barman, Senior Advocate. Ms. Sutapa Deb Barman, Advocate.
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For Respondent(s)	: Mr. Mangal Debbarma, Addl. G.A. Mr. Agniva Chakraborty, Advocate.
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Date of hearing and date of delivery of Judgment & Order	: 22 nd January, 2026
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Whether fit for reporting	: NO
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (Oral)

Heard Mr. Purusuttam Roy Barman, learned senior counsel appearing
for the petitioner and Mr. Mangal Debbarma, learned Addl. G.A. appearing for the
respondents-State.

[2] The petitioner joined in the service under the Health Department on 23.05.1988 as Physiotherapist and without any promotion went on superannuation on 30.04.2024, while processing his pensionary benefits from the Office of the Accountant General, a communication was made vide letter dated 12.11.2024 (Annexure-9 to the writ petition) to the Medical Superintendent, IGM Hospital, Agartala by returning the pension proposal along with Service Book of the petitioner with a request to re-fix the pay of the petitioner w.e.f. 23.05.1988 i.e. from the date of his joining in the service and to re-submit the same along with revised LPC, due-drawn statement of pay and allowances overdrawn, leave encashment overdrawn from the Office of said Medical Superintendent. From the Office of the Accountant General another reminder to that letter was also issued on 05.02.2025 (Annexure-10 to the writ petition).

[3] Thereafter, the Medical Superintendent, IGM Hospital, Agartala vide order dated 03.04.2025 (Annexure-11 to the writ petition) observed that there was overdrawn of Rs. 2,08,750/- on account of leave encashment and vide intimation letter dated 07.04.2025 (Annexure-12 to the writ petition) said Medical Superintendent also informed the petitioner that Rs.25,98,941/- was overdrawn on pay and allowances for the period 23.05.1988 to 30.04.2024. Therefore, the petitioner was instructed to deposit the above said amount through challan immediately.

[4] Challenging both the said orders dated 03.04.2025 (Annexure-11 to the writ petition) and 07.04.2025 (Annexure-12 to the writ petition), the present writ petition has been filed.

[5] Mr. Roy Barman, learned senior counsel submits that such re-fixation was done without hearing the petitioner, in gross violation of the principles of natural justice. Moreso, there was no contribution on the part of the petitioner in doing such wrong fixation, if any, in the matter of his pay and allowances and therefore, suddenly asking the petitioner to return such a huge amount is unreasonable, harsh and arbitrary. Therefore, both the orders may be set aside and the writ petition may be allowed.

[6] Mr. Barman, learned senior counsel also relies on a decision of the Hon'ble Supreme Court rendered in **State of Punjab and others vs. Rafiq Masih (White Washer) and others, (2015) 4 SCC 334**, wherein at Paragraph No.18 the following were observed by the Apex Court:

"18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

[7] Mr. Debbarma, learned Addl. G.A., submits that he has no objection if the matter is remanded back to the Department for re-fixing the pay and allowances of the petitioner after hearing him.

[8] In the light of the submissions made by both the sides and also in view of the fact that such an order of re-fixation and recovery were passed without hearing the petitioner, in violation of the principle of natural justice, both the said orders dated 03.04.2025 (Annexure-11) and 07.04.2025 (Annexure-12) are hereby quashed. The respondents are directed to go for re-fixation of the pay and allowances of the petitioner, if any, after hearing the petitioner. Needless to say, in the matter of recovery, if any, from the petitioner necessary decision will be taken

by the respondents keeping in mind the aforesaid decision of the Hon'ble Supreme Court in the case of **Rafiq Masih** (supra). The entire exercise shall be done within 2(two) months from the date of receipt of a copy of this order.

[9] With the above observations and directions, the writ petition stands disposed of. Pending application(s), if any, shall also stand disposed of.

JUDGE

