

**IN THE HIGH COURT OF TRIPURA  
AGARTALA**

**W.P.(C) No.377 of 2023**

**Sri Nataraj Datta,**  
S/O- Late Nirad Ranjan Datta,  
Resident of -19, Shibnagar, Santi  
Para, Agartala, West Tripura, Pin -  
799001, Age -64 years

..... **Petitioner(s)**

**- Versus -**

- 1. The State of Tripura**  
(To be represented by the Secretary cum  
Commissioner, Department of Science,  
Technology and Environment, Government of  
Tripura), New Secretariat Building, New  
Capital Complex, Kunjaban, P.S -New Capital  
complex, Agartala, West Tripura, Pin -799010
- 2. The Secretary**  
Department of Finance, Government of  
Tripura , New Secretariat Building, New  
Capital Complex, Kunjaban, P.S - New  
Capital Complex, Agartala, West Tripura,  
Pin-799010
- 3. The Director**  
Department of Science, Technology and  
Environment, Govt. of Tripura, Vigyan  
Bhavan, Gorkhabasti, PN Complex,  
Agartala, West Tripura, Pin -799006
- 4. Tripura State Council for Science and  
Technology**  
represented by it's Member Secretary,  
Department of Science, Technology and  
Environment, PN Complex, Vigyanbhavan,  
Gorkhabasti, Agartala, West Tripura, Pin -  
-799006.
- 5. The Joint Member Secretary**  
Tripura State Council for Science and  
Technology, Department of Science,  
Technology and Environment, PN  
Complex Vigyan Bhavan, Gorkhabasti  
Agartala, West Tripura, Pin -799006
- 6. Life Insurance Corporation of India**  
To be represented by the Manager I /C,  
(Pension and Group Schemes) Silchar  
Divisional Office, Meherpur, P.O- Silchar,  
District -Cachar, Assam-788015

..... **Respondent(s)**

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For the Petitioner (s)	:	Mr. P. Roy Barman, Sr. Adv. Mr. Samarjit Bhattacharjee, Adv.				
For the Respondent (s)	:	Mr. D. Bhattacharya, Sr. Advocate Mr. Samar Das, Adv. Mr. D. Sharma, Addl. G.A.				
Date of hearing	:	30.11.2023				
Date of delivery of Judgment & order	:	<b>08.01.2024</b>				
Whether fit for reporting	:	<table border="1"><thead><tr><th>YES</th><th>NO</th></tr></thead><tbody><tr><td>√</td><td></td></tr></tbody></table>	YES	NO	√	
YES	NO					
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**HON'BLE MR. JUSTICE S.DATTA PURKAYASTHA**

**JUDGMENT & ORDER**

The petitioner, joined in the post of Research Officer [Engineering] under the Tripura State Council for Science & Technology [in short, the State Council], a society registered under the Societies Registration Act, 1860 in the Department of Science, Technology and Environment on 30.11.1987. He later on got promotion to the post of Principal Scientific Officer (Space Application) w.e.f. 21.11.2012 and ultimately retired from the service on 31.10.2019. As averred, when he was in service, the State Council in its meeting of Executive Committee passed resolution on 22.12.2015, that a Trust would be formed comprising of Joint Member Secretary of the State Council, Joint Director, Department of Science, Technology and Environment, Government of Tripura i.e. DDO & HOO of the State Council and the Accounts Officer to manage LIC Linked Defined Benefit Pension Scheme w.e.f. 01.01.2016.

**[2]** Accordingly, a Deed of Trust was executed on 27.01.2016 between the State Council and the Joint Member Secretary of the State Council. Some terms and conditions of the said Trust relevant to the issues involved in this writ petition are highlighted below:

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<b>Trust Irrecoverable</b>	<b>4</b>	<b>These presents shall constitute a Trust upon which Trust shall be irrevocable in India. No moneys belonging to the Scheme in the hands of the Trustees shall be recoverable by the Employer nor shall the Employer have any lien or change of any description on the Scheme.</b>
<b>Employer to make contributions</b>	<b>7</b>	<b>The Employer agrees to make the contributions to the Trustees as provided in the Rules and the Trustees shall utilise the same for paying premium under the aforesaid Master Policy.</b>
<b>Power to Amend the Scheme</b>	<b>9</b>	<b>The Trustees may at any time by a resolution in writing signed by not less than two of them and with the consent in writing of the employer as also of the LIICI where the variations have a bearing on the terms and conditions of the Master Policy effected with the LICI but not otherwise alter, vary or amend any of the trusts or provisions of this Deed and the Rules. PROVIDED THAT no such alterations or variations shall be inconsistent with the main objects of the trust hereby created nor shall such alterations or variations in any way prejudice the rights or interests of the Member or his Beneficiaries.</b>
<b>Employer's Right to amend Scheme</b>	<b>10</b>	<b>(a)(i) The Employer may also at any time give three months notice in writing to the Trustees, of its intention to amend the scheme and it shall be lawful for the Trustees to give effect to such amendment or alteration. Such amendment shall ordinarily have effect from the anniversary of the date of commencement of the Scheme which next follows the date on which the notice has been served.</b>  <b>(ii) Any amendment shall not effect the benefits already secured for Members under the Rules and more particularly by the premiums paid to the LICI upto the date of such amendment.</b>
<b>Provision of Pension</b>	<b>11</b>	<b>On behalf of the Employer the Trustees shall provide fund for the payment of pension in defined benefit mode for the Members or for their Beneficiaries as the case may be, by entering into a Scheme with the LICI. The Trustees shall be responsible for deduction of Income Tax chargeable on any payment made by them to any member or his Beneficiary and shall deduct the relevant tax or duty therefrom and account for the same to the government of India.</b>

Termination of Trust	26	<p>(i) Winding up of the Employees' establishment- (Unless such winding up The trust Fund hereof shall be wound up only on the is for the purpose of amalgamation, reconstitution or reconstruction). Application for approval of winding up of the fund shall be made within reasonable time but not exceeding six months of winding up of the council/Establishment.</p> <p>(ii) Upon the winding up of the Trust Fund, the Trustees shall, after obtaining prior permission from the Employer make such arrangement with the LICI as to provide in the first instance, for the payment of pension in respect of the Members or the Beneficiaries (i) who are already in receipt of pensions under the Master Policy before the date of winding up and (ii) who have become entitled to receive specified amounts of pension and other from a future date by reason of the exercise of the option to receive such deferred benefits. The Trustees shall utilize the amount standing to their credit in the running account held by LICI in proportion to the benefits accrued for the Members on the date of winding up for securing pensions and other benefits of the same nature as specified in these Rules to such persons as may then be Members of the Scheme or to their Beneficiaries, as the case may be, irrespective of whether or not such members of Beneficiaries have become entitled to the benefits under the Scheme.</p>
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**[3]** From the said Deed of Trust, it appears that the basic object of the trust was for making provisions for some post retirement benefits for employees the State Council upon their retirement from service or upon earlier cessation of service or in the event of their death, for their wives/husband, children or dependents and to set up non-contributory superannuation scheme for them. At the time of

execution of said Deed of Trust, 'Rules of the State Council Employees Group Superannuation Scheme for Defenied Pensionary Benefit to the Employees of the State Council For Science and Technology' were also framed. Following 03 Nos. of LIC scheme were also introduced thereby w.e.f. 01.01.2016 after Finance Department concurred for the same vide no. 1208/FIN(G)/15 dated 04,11,2015 as evident from the Annexure-3 of the writ petition:

- i) Leave Encashment (Employees Group Leave Encashment Scheme),
- ii) Death cum Retirement Gratuity (Employees Group Gratuity Assurance Scheme),
- iii) Pension (Employees Group Superannuation Scheme).

**[4]** This way the EPF Pension Scheme as was prevalent at that time was discontinued and as alleged, the petitioner exercised his option in favour of the above said Defined Benefit Pension Scheme. It was the grievance of the petitioner that after his retirement he was not given full and final payment of all post-retirement benefits based on said Deed of Trust or the amount payable under said defined schemes of LIC.

**[5]** Meanwhile, the Finance Department, Government of Tripura issued Memorandum No. F.4(246)DSTE/Estt./Pt.-III/5566-70 dated 07.08.2017 making certain observations on above said schemes and thereafter the Special Secretary, Science, Technology and Environment Department communicated the following observations and directed to revise the calculation sheet of the premium accrued with the LIC based schemes:

**[i] Pension may be calculated @50% of last basic pay drawn without considering DA.**

**[ii] Family Pension may be calculated @50% of last basic pension drawn (without dearness relief).**

**[iii] No lumpsum amount/corpus shall be returned to the nominee on death of pensioner. The lumpsum amount, if any, may be added to the Corpus Fund so that the volume of the same increase and after a certain period of time there will be no requirement for payment of premium/current service cost.**

**[iv] Insurance coverage shall not be applicable.**

**[v] Gratuity may be calculated on Basic Pay and length of service only.**

**[vi] Benefit of encashment of leave to the credit of the employee to the maximum of 300 days shall be subject to adoption of the same in respect of the autonomous bodies of ST &E Department.**

**[6]** Thereafter, vide letter dated 26.12.2019 [Annexure-4 of the writ petition], i.e. after the retirement of the petitioner, the Joint Member Secretary of the State Council informed the LICl that in pursuance of the instruction of the Finance Department, the above said 3[three] LICl Schemes were to be discontinued. While the petitioner was in service, two departmental proceedings were initiated against him, which were challenged by him in W.P.(C) No.90 of 2020 with further challenge of the matter of discontinuation of said Pension Scheme but the High Court by order dated 05.02.2020 [Annexure-6 of the writ petition] observed that the matter of discontinuation of Pension Scheme was completely unrelated with the disputed issues involved in that writ petition and therefore, liberty was given to the petitioner to file separate petition for said purpose.

**[7]** The petitioner subsequently filed writ petition bearing W.P.(C) No.150 of 2020 regarding claim of such post-retirement benefits based on such LICl Retirement Scheme which was disposed

of by the learned Single Judge on 11.08.2022 with the following observations:

**In my opinion, considering the fact that the entire property was entrusted to the Trust, the Council being the establishment of this Government of Tripura cannot put any restriction asking the LICI not to release pensionary benefits in favour of the retired employees. It is the Trust and the Trust alone who can impose such restriction upon the LICI.**

**Furthermore, it comes to fore that before forming Trust and the agreement with LICI, the retired employees of the Council including the petitioner was under EPF scheme. Such EPF scheme was closed by the Council on the pretext that the contribution would be deposited to the LICI and the employees would get pension as per the new scheme. Due to such closer of scheme and switching over to pension scheme, and thereafter non-payment of pensionary benefits under the scheme to the retired employees is illegal and arbitrary.**

**Learned Government Advocate appearing for the Council has failed to inform this court as regards the fate of the employees after retirement. The legitimate right of the retired employees, in my opinion, cannot be taken away by the Council-respondent in the manner it issued the impugned letter dated 26.12.2019 asking the LICI for discontinuing the policy mentioned in the said letter for granting pension to the retired employees of the Council is detrimental to the interest of the retired employees without making any alternative arrangement for providing retiral benefits in favour of the retired employees like the petitioner.**

**In view of the above, and since the Trust has not taken any decision in this regard, I direct the LICI to release the pension alongwith all statutory benefits in favour of the petitioner in consonance with his entitlement of such pension as per the scheme.**

**It is directed that the Council shall initiate or facilitate the process of granting such pension with all statutory benefits to the petitioner by the LICI within a period of 2 (two) months from the date of receipt of this order.**

**However, the Council-respondent has every right to make appropriate provision for providing appropriate retiral benefits to its retired employees with the established principle of law and till then the impugned decision communicated vide letter dated 26.12.2019 to the LICI would have no force in the eye of law.**

**With the aforesaid direction, the instant petition stands allowed and disposed.**

**[8]** It is the further grievance of the petitioner that despite the order passed in the said writ petition being W.P.(C) No.150 of 2020 extracted hereinabove, the respondents did not comply with said

directions of the High Court in time bound manner for which he filed contempt proceeding bearing Contempt Case (C) No.142 of 2022 and during pendency of such contempt proceeding, the State Council accorded sanction of Rs.13,69,000/- as leave encashment and Rs.4,00,000/- as gratuity in favour of the petitioner though according to him, he was entitled to the gratuity amount of Rs.21,08,000/-. Said contempt petition was disposed of by the learned Single Judge vide order dated 24.03.2023 with the following observation:

**Taking note of the affidavit sworn by the respondent-contemnors, Mr. Roy Barman, learned senior counsel for the petitioner has submitted that the respondent-contemnors have not implemented the order what is required to be complied with under the said order. According to Mr. Roy Barman, learned senior counsel for the petitioner, the order has partially been complied with, but not in whole.**

**In this situation, if, according to the petitioner, the order has not been complied with wholly, the petitioner may file a representation to the competent authority ventilating his grievance and his further entitlement within 2(two) weeks from today.**

**After receipt of the said representation, the competent authority shall reconsider and dispose of the same with speaking order in accordance with rules within a period of 2(two) months and inform the petitioner accordingly.**

**In view of the above observation and directions, this contempt application stands closed.**

**[9]** Meanwhile, vide letter dated 18.03.2023 [Annexure-15 of the writ petition], the Head of Office & DDO of the State Council sent a letter to the LIC enclosing a 'Deed of Variance' which was executed in connection the Group Superannuation Scheme for Defined Pensionary Benefit to the employees of the State Council and therefore, LIC was requested to amend the provision of the master policy, namely LIC's New Group Superannuation Cash Accumulation Plan in line with the provision of Deed of Variance and also simultaneously requested the



LICI to release the monthly pension of the petitioner as per the amended policy. Vide sanction memo dated 22.03.2023 [Annexure-16 of the writ petition] the State Council also sanctioned monthly arrear pension of the petitioner to the tune of Rs.16,42,800/- for the period from 01.11.2019 to 28.02.2023 @ Rs.41,070/- per month [60% of admissible Pension of Rs.68,450/-] provisionally subject to finalisation of commutation of pension on receipt of the option of the writ petitioner for commutation as per terms of 'Deed of Variance'. The Trustee of State Council also communicated a letter of request dated 31.03.2023 [Annexure 18 of the writ petition] to the LICI to release monthly pension @ Rs.41,070/- to the petitioner for the month of March, 2023.

**[10]** The petitioner in terms of the order dated 24.03.2023 passed in the said contempt proceedings submitted representation on 30.03.2023 and then on 17.04.2023 to the Member Secretary of the State Council claiming further amount under post-retirement benefits as per the original Deed of Trust.

**[11]** In turn, the Joint Member Secretary of the State Council vide letter dated 25.05.2023 [Annexure-23 of the writ petition] informed the petitioner that in view of the judgment of W.P.(C) No.150 of 2020, amendment proposal as per observation of the Finance Department, Government Tripura and subsequent revision proposal, a Deed of Variance was executed by the Trustee of the State Council to provide retrial benefits to its employee at par with the benefits of the State Government employees and therefore, the

petitioner being the retired employee of the State Council provisions have been made to provide him retiral benefits at par with the State Government employees under the amended LICI Scheme for which Deed of Variance had already been registered.

**[12]** Finally, being aggrieved by the said action of the respondents, the petitioner has approached the writ jurisdiction of this court again seeking the following reliefs:

**i. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to sanction and release regular monthly pension, leave encashment benefit and other pensionary benefits to the Petitioner, in terms of Defined Benefit Pension Scheme (Trust Deed), as has been affirmed and settled by the Hon'ble High Court, vide Order, dated, 11.08.2022, passed in WPC No-150 of 2022.**

**ii. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby quash and cancel the letter, dated, 18.03.2023, issued by the HoO & DDO, TSCST and communicated to the Br. Manager, P & GS Unit, LICI. (Annexure- 15 to the writ petition).**

**iii. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby quashing and cancelling the letter, dated, 25.05.2023, issued by the Joint Member Secretary, TSCST, (Annexure- 23 to the writ petition).**

**iv. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to act in compliance with the Order, dated, 11.08.2022, passed by the Hon'ble High Court in WPC NO-150/2020.**

**v. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby declaring that, the pensionary benefits of the Petitioner is covered under Trust Deed (Defined benefit pension Scheme) and the Deed of Variance has no manner of application so far determining the post retiral benefits of the Petitioner is concerned.**

**vi. Issue Rule upon the Respondent to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to refix & release all pensionary benefits of the Petitioner with 9% interest on the basis of trust deed, which was in force at the time of retirement of the Petitioner on superannuation.**

**vii. Make the rules absolute,**

**viii. Call for records,**

**[13]** The core issue involved in this writ petition is that whether the post-retirement benefits of the petitioner should be paid as per the benefits as provided in the original Deed of Trust and LICCI Schemes subscribed thereupon or as per the terms of Deed of Variation. Admittedly, the Deed of Variation was executed after the retirement of the petitioner.

**[14]** Mr. P. Roy Barman, learned senior counsel appearing for the petitioner strenuously argued that no retrospective effect of the said Deed of Variance could be given to the deprivation of the petitioner as already option was taken by the department from the petitioner to be governed by the terms and conditions of the trust and therefore, rule of promissory estoppel will be applicable in this case. According to Mr. Roy Barman, even the original terms and conditions regarding post-retirement benefits were varied later on as per the instructions of the Finance Department, same cannot be made applicable in case of the petitioner as he retired prior to execution of said deed of variance. According to him, intentionally the State Council is causing delay to provide full benefits under original Defined Benefit Pension Scheme to the petitioner to his serious financial loss and harassment. Mr. Roy Barman, learned senior counsel further argued that the details of LICCI Linked Terminal Benefit Schemes as were introduced through the said trust was duly informed to the Finance Department by the State Council vide letter dated 13.12.2018 [Annexure-R/3 of the counter affidavit of the respondent Nos.4 & 5]

and therefore, the Finance Department had full knowledge of the same. According to Mr. Roy Barman, when a trust is created, Finance Department cannot have any dominion over the trust property, rather the Trustee will only have the full authority and control over such property.

[15] Mr. Roy Barman, learned senior counsel while arguing that the rule of promissory estoppel is applicable in the instant case, relied on a decision of the Apex Court in ***Lal Ram Vs. Jaipur Development Authority, (2016) 11 SCC 31*** wherein at para 131 the following preconditions were laid down by the Apex Court to apply such principle in case of government:

(a) A clear and unequivocal promise, knowing and intending that it would be acted upon by the promisee;

(b) On such acting upon the promise by the promisee, it would be inequitable to allow the promisor to go back on the promise.

[16] In ***Bharat Sanchar Nigam Ltd. and others etc. versus M/S Tata Communications Ltd. etc. [Civil Appeal No.1699-1723 of 2015]***, as further relied upon by Mr. Roy Barman, Hon'ble Supreme Court observed the followings:

The power to make retrospective legislations enables the Legislature to obliterate an amending Act completely and restore the law as it existed before the amending Act, but at the same time, administrative/executive orders or circulars, as the case may be, in the absence of any legislative competence cannot be made applicable with retrospective effect. Only law could be made retrospectively if it was expressly provided by the Legislature in the statute.

[17] Mr. Roy Barman, learned senior counsel also referred another decision of the Hon'ble Supreme Court in ***the State of Jharkhand and Ors. vs. Brahmputra Metallics Ltd. and Ors.,***

[decided on 01.12.2020 in **Civil Appeal Nos.3860-3862 of 2020**], wherein law relating to promissory estoppel and doctrine of 'legitimate expectation' were discussed in details. At Para-31 it was observed that India has adopted a more expansive statement of the doctrine of promissory estoppels and the court has given an expansive interpretation to the doctrine of promissory estoppel in order to remedy the injustice being done to a party who has relied on a promise.

**[18]** Mr. D. Bhattacharya, learned senior counsel appearing for the respondents No.4 & 5 argued that the State Government had made certain observation for correction of the Deed of Trust and accordingly, same was done and the petitioner himself being a person holding responsible post in the State Council was under obligation for proper implementation of actual object of the scheme and the directions of the Government. Mr. Bhattacharya further added that the petitioner did not challenge the Deed of Variation in the present writ petition and therefore, cannot argue on the validity of such Deed of Variance. Mr. Bhattacharya also pointed out that the instructions of the Finance Department for correction of the original Deed of Trust was prior to the retirement of the petitioner and basic fund flow for implementation of the schemes in the State Council was sourced from Finance Department and therefore, without approval of Finance Department or in disobedience to their instructions, it is/was not possible to extent any sort of benefit to any employee of the State Council. Mr. Bhattacharya referring to Annexure-R/3 of the counter affidavit of respondents No.4 & 5 i.e. the letter dated 13.12.2018

issued by Senior Scientific Officer of the State Council to the Finance Department enclosing the details of LICICI Linked Terminal Benefit Scheme, submitted that the same was issued after the Finance Department had issued such instructions and the present writ petitioner was also signatory in the said letter which was issued in dire disregards to the instruction of Finance Department. Therefore, when the observation of the Finance Department was in existence, no entitlement of the petitioner accrued as per the previous scheme.

**[19]** Mr. Bhattacharya, learned senior counsel strongly refuted the claim of the petitioner by further submitting that earlier the writ court did not settle the issue that the petitioner was entitled to get the post-retirement benefits as per the old scheme. According to him, retrospective effect of rules is permissible when the total scheme became unsettled after the observations of the Finance Department and later on, same was settled by an execution of Deed of Variance. Next point, he argued, was that the implementation of any scheme introduced has always bearing upon the fund flow as received from the State Government and therefore, granting of any benefit based on trust was not permissible. He further argued that as per the earlier scheme there was no scope for payment of any gratuity and that has been brought only through the new scheme. Mr. Bhattacharjee, learned senior counsel also referred some portion of the observation of the Writ Court in W.P.(C) No.150 of 2020 to the effect that the State Council has every right to make appropriate provision for providing appropriate retiral benefits to its retired employees with the established principle of law and till then the impugned decision

communicated vide letter dated 26.12.2019 to the LICCI would have no force in the eye of law.

**[20]** To buttress his submission that the department has properly implemented such direction of the court by way of execution of said Deed of Variance, finally, Mr. Bhattacharya, learned senior counsel argued that despite instruction of Finance Department issued in the year 2017, the petitioner deliberately caused delay in processing the file to get higher benefits after his retirement and therefore, he is not entitled to any relief as claimed.

**[21]** Mr. D. Sharma, learned Addl. GA appearing for the respondents No.1,2 & 3 also argued that the Deed of Trust was not final rather only starting phase of the process, subject to clearance by the Finance Department and Department of Science, Technology and Environment which got the final shape by way of execution of Deed of Variance and the petitioner had full knowledge of the entire process as he worked in different posts in the State Council. More so, any rules/scheme created by any department is subject to the approval of the Finance Department of the State and therefore, according to him also, the petitioner is not entitled to get any post retirement benefit as per the previous scheme.

**[22]** As discussed in details above, the Deed of Trust was created in pursuance of the concurrence of Finance Department issued vide No.1208/FIN(G)/15 dated 04.11.2015 followed by the decision of the Executive Committee of the State Council and 3[three] different scheme viz. Leave Encashment (Employees Group Leave

Encashment Scheme), Death-cum-Retirement Gratuity (Employees Group Gratuity Assurance Scheme) and Pension (Employees Group Superannuation Scheme) were introduced through LIC w.e.f. 01.01.2016 as revealed from Annexure-3 of the writ petition. Option was also obtained from the employees of the State Council and the petitioner accordingly opted for coverage under those schemes leaving the EPF Scheme discontinued.

[23] Accordingly, Deed of Trust was also executed which was made irrevocable as indicated above, having certain powers to amend the scheme. Certain rules namely, Rules of Tripura State Council for Science, Technology and Environment Employees Group Superannuation Scheme for Defined Pensionary benefit to the employees of Tripura State Council for Science and Technology were also framed which also made certain provisions for benefits of the employees on their normal retirement like commutation of pension etc.

[24] Taking of option from the petitioner to come under the coverage of said schemes, was an implied promise of the employer giving rise to a legitimate expectation in the mind of the petitioner that he would be governed by the said scheme and would get all the benefits under the said scheme on his retirement.

[25] In ***National Buildings Construction Corporation vs. S. Raghunathan and others***, reported in (1998) 7 SCC 66, it was observed by the Apex Court that the doctrine of "Legitimate Expectation" has its genesis in the field of administrative law. The



Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively.

**[26]** Already in earlier writ petition bearing No. W.P.(C) No.150 of 2020, the disputed issues were dealt with by a coequal Bench and it was held that the entire property was entrusted to the trust, the council being the establishment of the Government of Tripura cannot put any restrictions asking the LICICI not to release pensionary benefits in favour of the retired employees. It was also observed that earlier the EPF Scheme was closed on the pretext that the contribution would be deposited to the LICICI and employees would get pension as per the new scheme. Therefore, non-payment of pensionary benefits under said new scheme was illegal and arbitrary. The letter dated 26.12.2019 [Annexure-4 of the writ petition] issued to LICICI regarding discontinuation of said 3[three] LICICI Schemes was also held to be detrimental to the interest of the retired employees without making any alternative arrangement for providing retiral benefits in favour of the retired employees like petitioner and accordingly, LICICI was directed to release the pension along with all statutory benefits in favour of the petitioner in consonance with his entitlement as per that scheme. But as it appears, just by highlighting and giving over emphasis on some portion of observations of that Bench that the Council-respondents have every right to make appropriate provisions for providing appropriate retiral benefits to its retired employees with

the established principle of law, the respondents have attempted to bring the present petitioner under coverage of the benefits available under the Deed of Variance, which is not permissible at law.

**[27]** The Apex Court in ***Bharat Sanchar Nigam Ltd. (supra)*** has already held that any Government circular/order cannot be given retrospective effect. Therefore, the Deed of Variance cannot be allowed to be applied retrospectively upon the petitioner by the respondents. As per enclosure R/3 of the counter affidavit as indicated above, under the previous scheme total 39 numbers of employees were covered and till 13.12.2018 total financial benefits of Rs.88,87,169/- was provided to the employees under the said scheme. Therefore, the petitioner cannot be allowed to be treated arbitrarily and inequally with other retired employees who have been already provided such benefits under the previous scheme. Indeed there is no dispute that the fund flow is sourced from the state exchequer and therefore, the respondents have their every right to make appropriate provisions for providing retiral benefits to the employees of the State Council but after such new provisions are made by the respondents, same cannot be applied retrospectively.

**[28]** In view of above, the writ petition is allowed. It is held that the post-retiral benefits of the petitioner will be guided by the scheme under the Deed of Trust i.e. LIC Linked Terminal Benefit Scheme as was introduced from 01.01.2016 and therefore, the petitioner will be entitled post-retiral benefits as per above said 3[three] schemes of LIC i.e. LIC's New Group Gratuity Cash Accumulation Plan, LIC's New

Group Leave Encashment Plan and LIC's New Group Superannuation Cash Accumulation Plan. It is also held that the Deed of Variance will have no retrospective effect and subsequently the letter dated 18.03.2023 issued by the Head of Office and DDO, Tripura, State Council to the Senior Manager, P & GS Unit, LIC of India, Division Office Meherpur, Silchar-15 [Annexure-15 of the writ petition] will have no application in case of the present petitioner. The respondents are therefore, directed to make payment within 8[eight] weeks from today of all the post-retiral benefits to the petitioner as per above said 3[three] Schemes apart from other benefits, if any, which he is otherwise entitled as per other rules/laws, after making of adjustment of what have already been paid.



**JUDGE**