

ORDER SHEET

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>b) an order commanding the respondents to refix the applicants' pay after extending the benefit of the orders of enhancement of the age of Superannuation contained in annexures 'L' and 'M' to them on notionally treating them to have remained in service up to the age of Sixty Five years and stump up the arrears payable to them on the basis of such refixation of pay.</p> <p>c) an order commanding the respondents to pay the appropriate amount of pension calculated on the basis of their final pay as refixed after extending the benefit of the said orders of enhancement of the age of Superannuation contained in annexures 'L' and 'M'.</p> <p>d) an order directing the respondents to produce all records relating to instant case before this Hon'ble Tribunal so that on perusal of the same appropriate orders may be passed by your lordship for dispensation of conscionable relief to the applicants.</p> <p>It is submitted by Prof. Binoy Bhushon</p>	

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	<p>Chakraborty, the applicant no.1, appearing in person and also on behalf of other applicants, that since the retirement age of all full-time regular Teachers, Principals, Librarians and Physical Laboratory Instructors of government colleges, by notification dated 31st January, 2017 being Annexure 'L' to the application was enhanced from 60 years to 62 years and thereafter by notification dated 24th January, 2019, being Annexure 'M' to the application, was further enhanced from 62 years to 65 years, the State respondents may be directed to extend the benefits of the orders of enhancement of age of superannuation notionally to the applicants treating them that they have remained in service upto the age of 65 years and to pay arrears after refixation of pay. Submission is that as the issue of enhancement of age was pending for long and during the said period the applicants have retired, appropriate order, as prayed for, may be passed. During hearing our attention has been drawn to the order of the Supreme Court passed on 20th April, 2010 in Civil Appeal No. 1683 of 2005 (All Bengal State Government College Teachers' Association vs. State of West Bengal & Others) wherein the applicant no.1 had appeared on behalf of All Bengal State Government College Teachers' Association, the appellant, and had argued the matter.</p> <p style="text-align: center;">There is no dispute that the applicants who have superannuated in between 2006 and 2016 have prayed for</p>	

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	<p>orders as already noted hereinbefore. It is evident that the notifications dated 31st January, 2017 and dated 24th January, 2019, both issued by the Finance (Audit) Department, Government of West Bengal, do not operate retrospectively. Therefore, the applicants cannot claim the benefits arising out of the said notifications.</p> <p>The order of the Supreme Court relied on by the applicants is as under :</p> <p>“Shri Benoy Bhushon Chakraborty, the General Secretary of the All Bengal State Government College Teachers’ Association has appeared in person and argued the case with great ability. S/Shri Tara Chand Sharma, Ashok Bhan and Amitesh Kumar, Advocates have appeared for the State of West Bengal, Union of India and University Grants Commission respectively.</p> <p>Shri Chakraborty submitted that the age of retirement of the teachers in Government Colleges in the State of West Bengal should be increased.</p> <p>We cannot issue any direction to the State Government to increase the age of superannuation since increasing the age of</p>	

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	<p>superannuation is within the domain of the legislature or executive and certainly not within the domain of the judiciary. However, we agree with Shri Chakraborty that since teachers are doing only intellectual work and not physical work, the age of retirement from 60 years should be increased. Also, longevity in this country has increased. As observed earlier, we cannot issue a direction to the State Government to raise the age of superannuation but we recommend to the State Government to consider this aspect of the matter sympathetically and consider increase of the age of superannuation in respect of teachers to 62 years throughout the State because they only do the intellectual work and not physical work.</p> <p>The Appeal is disposed of in the above terms. No costs.”</p> <p>It is apparent from the order of the Supreme Court that enhancing the age of superannuation is not within the domain of the judiciary. The Supreme Court had recommended the State government to consider the matter sympathetically which the State government has done by issuing the notifications dated 31st January, 2017</p>	

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SCN.	<p>and 24th January, 2019. Fixing the date of superannuation is a matter of policy and is the prerogative of the government. Therefore, the Court or Tribunal has no function in the matter. Thus, there is no merit in the application. Hence, the application is dismissed.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	