

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – **OA 908 OF 2017**

Prasun Kumar Misra Vs **The State of West Bengal & Ors.**

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 style="text-align: center;">05 <hr/>18.07.2018</p>	<p>For the Applicant : Mr. S. Ghosh, Learned Advocate.</p> <p>For the State Respondents : None.</p> <p>For the Respondent No. 7 : Mr. A.K. Das Sinha, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for interest on delayed payment of gratuity and the amount of leave encashment on superannuation of the father of the applicant.</p> <p>One Pronay Kumar Misra, the father of the applicant retired from the post of Operator-cum-Mechanic of Raipur, R.L.I. Scheme under Kaliganj Block in the district of Nadia on April 30, 2014. A criminal case was started against the father of the applicant while he was in service and he was also under suspension. The father of the applicant was acquitted of the charge by competent court of law on June 16, 2014. The father of the applicant received an amount of Rs.5,21,136/- as Gratuity on April 11, 2016. He has also received an amount of Rs.3,18,840/- on account of Leave Encashment on March 11, 2015. The father of the applicant died on November 6, 2016. The applicant has now prayed for interest on delayed payment of gratuity and amount of leave encashment.</p>	

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It appears from letter dated July 30, 2014 addressed to the respondent no. 4 by the respondent no. 3 that the respondent no. 3 asked the respondent no. 4 to take necessary steps for payment of retirement benefits to the applicant on receiving information about acquittal of the father of the applicant from the criminal charge. However, it appears from the materials on record that the father of the applicant received the amount of gratuity only on April 11, 2016 and the amount of leave encashment only on March 11, 2015.

The question for consideration of the Tribunal is whether the father of the applicant is entitled to get interest on the amount of gratuity and the amount of leave encashment. By virtue of Memorandum No. 9112-F dated September 24, 1979 issued by the Secretary to the Government of West Bengal, Finance Department, Audit Branch read with letter no. 2196-F (PEN) dated December 9, 1991 issued by the Deputy Secretary, Finance Department, Audit Branch, the father of the applicant is entitled to get interest on amount of gratuity @ 5% per annum for the period beyond three months when the gratuity becomes due till the end of the preceding month on which payment was actually made, if there was no lapse on the part of the applicant. In the instant case, the respondent no. 3 communicated to the respondent no. 4 about fact of acquittal of father of the applicant from the criminal charge and asked the said respondent no. 4 to release

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retirement benefits to the father of the applicant and as such the delay in payment of gratuity and leave encashment cannot be attributed to the conduct of the father of the applicant. So, the father of the applicant is entitled to get interest on delayed payment of gratuity and also leave encashment.

On consideration of the materials on record, we find that in the instant case, the father of the applicant is entitled to get interest on the amount of gratuity for the period from August 1, 2014 to March 31, 2016 and interest on amount of leave encashment for the period from August 1, 2014 to February 28, 2015. The amount of interest @ 5% per annum was fixed by the memo of Finance Department, Government of West Bengal in the year 1979. By taking into consideration the present rate of interest given by the nationalised bank on term deposit and the interest on the amount of money deposited in PPF and GPF, we are of the view that the amount of interest should be fixed @7.5% per annum.

In view of our above findings, the respondent no. 4, Block Development Officer, Kaliganj Development Block, Nadia is directed to make payment of interest to the legal heirs of Late Pronay Kumar Misra @7.5% per annum on the amount of Rs.5,21,136/- for the period from August 1, 2014 to March 31, 2016 and interest @ 7.5% per annum on amount of Rs. 3,18,840/- for the period from August 1, 2014 to February 28, 2015 within a period of 12 (twelve) weeks from the date of

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<p>Sanjib</p>	<p>communication of the order.</p> <p>With the above direction, the original application stands disposed of.</p> <p>Let a plain copy of this order be supplied to all the parties.</p> <p>(S.K. DAS) MEMBER(A)</p> <p>(R. K. BAG) MEMBER (J)</p>	
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