

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 1016 OF 2016

Debabrata Mallick 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
09 28.02.2019	<p>For the Applicant : Mr. M.N. Roy, Mr. D. Saha, Mr. G. Halder, Learned Advocates.</p> <p>For the Respondents : Mrs. S. Agarwal, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents for revision of his pay and allowances w.e.f. April 1, 2008 in terms of the provisions of ROPA 2009 and consequential financial benefits after compulsory retirement from service.</p> <p>It appears from the materials on record that the disciplinary proceeding was initiated against the applicant while he was working as District Controller, Food & Supplies, Paschim Medinipur in terms of the provisions of West Bengal Services (Classification, Control and Appeal) Rules, 1971. On November 11, 2010, the order of punishment of compulsory retirement from service was imposed on the applicant by the disciplinary authority. The applicant was under suspension for considerable period of time and had drawn subsistence allowance in the unrevised pay scale. The disciplinary authority has clearly mentioned in the order of punishment that the period of</p>	

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suspension of the applicant shall not be treated as on duty and the pay and allowances for the period of suspension shall be restricted to subsistence allowance already drawn and paid to him. The applicant had received pension, gratuity, leave salary by taking into consideration his last pay of Rs.35,140/- w.e.f. July 1, 2006. The grievance of the applicant is that his pension, leave salary and subsistence allowance should have been increased in terms of his revised pay of Rs.36,670/- w.e.f. July 1, 2006 in terms of order dated March 28, 2016 issued by the Director, Directorate of District Distribution, Procurement and Supply, Department of Food & Supplies, Government of West Bengal.

Mr. M.N. Roy, Learned Counsel for the applicant contends that pension and leave salary of the applicant needs to be revised in terms of the revised last pay drawn by the applicant @ Rs.36,670/- on July 1, 2006. Mr. Roy further submits that the subsistence allowance already drawn by the applicant needs to be revised in terms of ROPA 2009 which came into effect on January 1, 2006 notionally, though actual financial benefit was given w.e.f. April 1, 2008. On the other hand, Mrs. Agarwal, Learned Counsel representing the state respondents, submits that leave salary of the applicant was revised and additional amount of Rs.15,300/- was paid to the applicant on account of leave salary vide Bill No. 12/16-17 dated April 29, 2016. We have also heard Mr. Mitra, the Departmental

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Representative of the respondent AG, West Bengal.

Since the last pay of the applicant was revised from Rs.35,140/- to Rs.36,670/- w.e.f July 1, 2006, the applicant is entitled to get revised pension and leave salary in terms of the revised last pay drawn by the applicant @ Rs.36,670/- w.e.f July 1, 2006. Now, the question for determination of the Tribunal is whether the applicant is entitled to get any increment during the period of suspension and whether the applicant is entitled to get revised subsistence allowance in terms of the revised last pay drawn by the applicant w.e.f. July 1, 2006.

Admittedly, the applicant has not been reinstated in service and the period of suspension has not been treated as on duty by the disciplinary authority. What transpires from the order of punishment imposed by the disciplinary authority is that the pay and allowances of the applicant for the period of suspension shall be restricted to the subsistence allowance already drawn and paid to him. The natural corollary is that the applicant is not entitled to get any increment during the period of suspension. Nor is the applicant entitled to get revised subsistence allowance as contented on behalf of the applicant. Since the applicant has already received additional amount of Rs.15,300/- towards leave salary after revision of last pay drawn by the applicant in addition to the leave salary already drawn by him to the tune of Rs. 3,54,000/-, the amount of leave salary, if revised in terms of

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revised salary of the applicant, the same need to be revised and paid to the applicant after adjustment with the amount of Rs.15,300/- and Rs. 3,54,000/- already received by the applicant

In view of our above observation, we would like to hold that the applicant is not entitled to get enhanced subsistence allowance during the period of suspension or any annual increment during the period of suspension. However, the applicant is entitled to get revised pension and revised leave salary, if not already paid to the applicant.

Accordingly, we direct the respondent no. 2, Director, Directorate of District Distribution, Procurement and Supply, Department of Food & Supplies, Government of West Bengal to take necessary steps for sanction of revised pension and revised leave salary of the applicant in terms of the order dated March 28, 2016 issued by the said respondent (Annexure-A to the original application) and disbursement of the same, if not already disbursed, within a period of 12 (twelve) weeks from the date of communication of the order.

With the above direction, the original application is **disposed of.**

Let a plain copy of this order be supplied to both parties.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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