

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

Case No – **OA 121 OF 2016**

**Prativa Nandy** 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 26.02.2020	<p>For the Applicant : Mr. S.N. Ray, Learned Advocate.</p> <p>For the Respondent : None.</p> <p>The applicant has prayed for direction upon the respondents for grant of periodical annual increment w.e.f. April 1, 1991, April 1, 1996 and April 1, 2001 instead of July 1, 1991, July 1, 1996 and July 1, 2001 respectively after setting aside the order communicated under letter dated August 25, 2010 by the Joint Director (Personnel), Directorate of Health Services, West Bengal (Annexure-D to the original application).</p> <p>The applicant joined in the Government service as Lower Division Clerk in the office of the Assistant CMOH, Hooghly in the year 1990. She got promotion to the post of UDC on March 26, 2008. She remained absent from duty due to sickness during the period from March 1, 1991 to May 31, 1991. By order dated July 19, 2006, Director of Health Services, West Bengal granted Earned Leave in favour of the applicant for a period of 28 days from March 1, 1991 to March 28, 1991 and "leave not due" for 64 days from March 29, 1991 to May 31, 1991. The apprehension of the applicant is that her date of annual increment was changed from April 1, 1991 to July 1, 1991 as she was absent from duty for which leave was subsequently granted for regularisation of her absence. The order which is under challenge before us is the order dated</p>	

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November 9, 2010 issued by the Zonal Health Officer, KMUHO, Zone-VI, Chinsurah, Hooghly, which was communicated to the applicant under letter dated August 25, 2010. It appears from the said impugned order dated November 9, 2010 that the date of annual increment of the applicant was changed from April 1, 1991 to July 1, 1991 in terms of ROPA Rules by which the applicant is governed. The applicant submitted the application for change of her option for fixation of pay under West Bengal Services (Revision of Pay and Allowances) Rules, 1998 (in short, ROPA Rules, 1998), which was not accepted by the Finance Department, Government of West Bengal on the ground that the case of the applicant does not fall within the ambit of relaxation of rules laid down in the ROPA Rules, 1998.

None appears on behalf of the state respondents in spite of service of notice.

Mr. S.N. Ray, Learned Counsel for the applicant, contends that Rule 13 of the ROPA Rules, 1998 lays down the circumstances when the Rules can be relaxed and permission can be granted to a Government employee for exercise of re-option/fresh option as the fixation of pay in terms of the ROPA Rules, 1998 caused inconvenience and hardship to the applicant. He further submits that the date of annual increment was changed from April 1, 1991 to July 1, 1991 as the applicant was absent from duty for which leave was subsequently granted in her favour.

On consideration of the order for grant of leave dated June

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19, 2006 and the order of refixation of pay by granting annual increment w.e.f. July 1, 1991 instead of April 1, 1991, we do not find any correlation between grant of leave and fixation of pay by changing annual increment w.e.f July 1, 1991 instead of April 1, 1991. What transpires from the materials on record is that the date of annual increment was changed from April 1, 1991 to July 1, 1991 in terms of the provisions of the ROPA Rules which was prevalent at the material point of time.

Now, the question for consideration of the Tribunal is whether the state respondents should have relaxed the provisions of ROPA Rules, 1998 in order to allow the applicant to exercise fresh option/re-option for fixation of pay in terms of the said ROPA Rules, 1998. It is relevant to quote the provisions of Rule 13 of the ROPA Rules, 1998, which is as follows :

**“13. Relaxation of rules – Where the Governor is satisfied that the operation of all or any of the provisions of these rules causes undue hardship in any particular case or class of cases, he may, be order, dispense with or relax the requirement of all or any of these rules to such extent and subject to such conditions as he may consider necessary for dealing with the case or class of cases in a just and equitable manner.”**

On perusal of the above provisions of the rules, we find that

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the ROPA Rules can be relaxed if the rules causes undue hardship in any particular case or class of cases and the relaxation of the rules may necessitate for giving equitable relief to a particular case or class of cases. In the instant case, we fail to understand what inconvenience or hardship is caused to the applicant for fixation of her pay in the revised pay scale in terms of the provisions of the ROPA Rules, 1998 by giving annual increment in terms of the provisions of the said ROPA Rules, 1998. In our view, the present application is totally misconceived and the same is liable to be rejected.

As a result, the original application is **dismissed**.

**( S.K. DAS )**  
**MEMBER(A)**

**( R. K. BAG )**  
**MEMBER (J)**

Sanjib