

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 163 OF 2018

Achintya Kumar Mukherjee 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 |
|------------------------------------|--|--|
| 06 16.01.2019 | <p>For the Applicant : Mr. A. Hati, Learned Advocate.</p> <p>For the Respondent : Mr. M.N. Roy, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for grant of compensation of Rs.50,00,000/- (Rupees fifty lacs) for delay in disbursement of the retirement benefits and payment of interest @ 10% per annum on the amount of retirement benefits already received by the applicant in terms of judgment dated March 12, 2013 passed by this Tribunal and other ancillary reliefs.</p> <p>Mr. Hati, Learned Counsel for the applicant, has prayed for accommodation. This case was fixed for admission hearing on January 15, 2019 after restoration of this original application which was dismissed for default on July 12, 2018. Learned Counsel was granted accommodation on the previous date of hearing. We do not find any cogent reason for granting accommodation to the applicant on two consecutive dates and as such prayer for accommodation is refused.</p> <p>It appears from the materials on record that the applicant</p> | |

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challenged the disciplinary proceeding started against the applicant by filing OA-681 of 2011. The said original application was disposed of on March 13, 2013 by setting aside the enquiry report and the punishment imposed on the applicant by the disciplinary authority. However, by order dated March 13, 2013 passed in OA-681 of 2011, this Tribunal gave liberty to the state respondents to start fresh enquiry against the applicant from the stage of service of charge memo and asked the state respondents to conclude the enquiry, if any started against the applicant afresh, within a period of six months from the date of communication of the order. The Tribunal also directed the applicant to cooperate with the enquiring officer and the disciplinary authority for conclusion of the disciplinary proceeding within the time-frame fixed by the Tribunal.

The contention of the applicant is that the complainant got retirement benefits only in the year 2016, as no disciplinary proceeding was initiated afresh against the applicant by the state respondents. No document is forthcoming before the Tribunal to ascertain on which dates the retirement benefits have actually been received by the applicant. In the absence of any document indicating receipt of pension and other retirement benefits by the applicant, it is well-nigh impossible for us to decide whether the applicant is entitled to get any interest for delayed payment of retirement benefits, particularly when no direction was given by the Tribunal in OA-681 of 2011 for disbursement of retirement

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benefits in favour of the applicant.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant should have received retirement benefits at least within a period of one year from the date of disposal of OA-681 of 2011 on March 13, 2013, as no disciplinary proceeding was initiated against the applicant afresh in spite of granting liberty to the state respondents. The natural corollary is that the applicant should have taken appropriate step for approaching the Tribunal at least within a period of one year after expiry of one year from the date of disposal of OA-681 of 2011 on March 13, 2013. No explanation is forthcoming why the applicant did not approach the Tribunal during the period from March 13, 2015 till February 27, 2018. This inordinate delay of three years for approaching the Tribunal has not been explained by the applicant anywhere in the original application or by filing a separate application in this regard under section 21 (3) of the Administrative Tribunals Act, 1985. Accordingly, this original application is clearly barred under section 21 of the Administrative Tribunals Act, 1985. So, this application stands **dismissed**.

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

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib

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