

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 209 OF 2015

Smt. Tagar Mandal 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
14 17.01.2019	<p>For the Applicant : Mr. G.P. Banerjee, Mr. S.R. Chowdhury, Learned Advocates</p> <p>For the Respondent : Mr. S.N. Ray, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for grant of interest @ 10% per annum on the entire amount of arrears of salary of the applicant to the tune of Rs. 14,02,340/- for delayed payment of the said amount during the period from March 1991 to March 2014 and other ancillary reliefs.</p> <p>The applicant joined in the post of Health Assistant (Female) in terms of order dated February 15, 1990 issued by the Director of Health Services, West Bengal. The contention of the applicant is that she has been working in the post of Health Assistant (Female) without receiving any incremental benefit for prolonged period of time. The grievance of the applicant for not receiving incremental benefit was not properly addressed by the higher authority of the applicant, in spite of submission of several representations in this regard by the applicant. The contention of the applicant is that the applicant was also not granted benefit of Career Advancement Scheme for completion of satisfactory</p>	

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	<p>service of 10 years and 16 years in terms of ROPA 1998 and ROPA 2009. Since the respondent did not address the grievance of the applicant, the applicant approached the Tribunal by filing OA-1344 of 2011 which was disposed of on April 2, 2012 by directing the Director of Health Services, West Bengal to decide the claim of the applicant with regard to non-payment of increment and non-payment of benefit of Career Advancement Scheme by passing a reasoned order within stipulated period of time. On February 6, 2013, the Director of Health Services, West Bengal passed a reasoned order, whereby the Chief Medical Officer of Health, Purulia was directed to conduct an enquiry in connection with withholding of benefit of service to the applicant and to take appropriate steps for regularisation of unauthorised absence of the applicant from duty. Ultimately, on August 16, 2013, the unauthorised absence of the applicant was regularised by grant of leave of different kinds including Extra Ordinary Leave of 82 days for the period from March 15, 1990 to June 4, 1990 by the Chief Medical Officer of Health, Purulia. As soon as unauthorised absence of the applicant was regularised by grant of leave, the respondent no. 5, Block Medical Officer of Health, Para Block Primary Health Centre granted annual incremental benefit to the applicant from the date of joining in the service and benefit of Career Advancement Scheme to which the applicant was entitled by passing an order on September 7, 2013. Ultimately, the applicant received arrears of salary to the tune of Rs.</p>	
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14,02,340/- on March 12, 2014.

With the above factual matrix, Mr. G.P. Banerjee, Learned Counsel for the applicant, contends that the applicant has been deprived of annual incremental benefit and benefit of Career Advancement Scheme from the date of joining in the service and as such the applicant is entitled to get interest on the arrears of salary due to delayed payment. On the other hand, Mr. S.N. Ray, Learned Counsel representing the state respondents, submits that annual incremental benefit and benefit of Career Advancement Scheme could not be given to the applicant due to unauthorised absence of the applicant from duty and due to lapse on the part of the applicant for not taking appropriate steps for regularisation of unauthorised absence by grant of leave. He further submits that the incremental benefit is given to the applicant every year from the date of her joining in the service in the year 1990 and the interest on the said benefit accrued during prolonged period of time cannot be calculated in the reasonable manner.

Having heard Learned Counsel representing both parties and on consideration of the background facts of receiving arrears of salary by the applicant, we find that the applicant was absent from duty in different spells during prolonged period of time. Nothing is on record to indicate that the applicant took proper steps for regularisation of absence from duty by

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submitting appropriate application for grant of leave before the authority concerned. The very fact of grant of extra ordinary leave to the applicant for a period of 82 days goes to establish that no other leave was to the credit of the applicant when extra ordinary leave was granted without pay for regularisation of unauthorised absence of the applicant. The withholding of annual increment of the applicant and withholding of benefit of Career Advancement Scheme of the applicant cannot be attributed to the conduct of the state respondents, particularly when the applicant did not take appropriate steps for regularisation of unauthorised absence from duty.

In our view, the applicant is not entitled to get any interest on arrears of salary before passing of the order for regularisation of absence by grant of leave on August 16, 2013 and before granting benefit of annual increment and benefit of Career Advancement Scheme of the applicant on September 7, 2013. Since the order for granting all benefits of service to the applicant was passed by Block Medical Officer of Health, Para Block Primary Health Centre on September 7, 2013, the arrears of salary should have been paid to the applicant at least within a period of 3 (three) months from the date of passing of the said order dated September 7, 2013. However, the applicant received the cheque of Rs. 14,02,340/- only on March 12, 2014 and as such, there was delay in payment on arrears of salary at least during the period from December 7, 2013 to March 11,

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2014. The applicant is entitled to get interest on arrears of salary during the aforesaid period of time and the said amount of interest should be @ 8% per annum, as the said amount of interest is given by the nationalised bank for long term fixed deposit.

In view of our above observation, the respondent no. 5, Block Medical Officer of Health, Para Block Primary Health Centre is directed to make payment of interest to the applicant on the amount of Rs. 14,02,340/- @ 8% per annum during the period from December 7, 2013 to March 11, 2014 within a period of 8 (eight) weeks from the date of communication of the order.

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

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

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib