

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 45 OF 2017

Tapan Kumar Tarafder & Ors. 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
08 28.08.2018	<p>For the Applicants : Mr. D. Dutta, Learned Advocate.</p> <p>For the Respondents : Mr. S. N. Ray, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicants have prayed for direction upon the respondents for refixation of pay by giving pay protection in terms of Rule 55(4) of West Bengal Service Rules, Part-I on the ground that the juniors to the applicants in service are getting higher scale of pay.</p> <p>The applicant no. 1, Tapan Kumar Tarafder joined in the service as Fire Operator on September 15, 1965 and he retired on October 31, 2006. The applicant no. 2, Shambhu Nath Sengupta retired from service on February 28, 2007. The deceased husband of the applicant no. 3, Late Kartick Ch. Das retired from service April 30, 2007. The husband of the applicant no. 3 and others moved the Tribunal by filing OA-9843 of 2007 praying for refixation of pay by giving pay protection on the ground that the juniors of those employees in service were getting higher scale of pay. On November 4, 2008, the Tribunal disposed of OA-9843 of 2007 by directing the Director General,</p>	

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West Bengal Fire and Emergency Services to consider the original application by treating the same as representation and dispose of the same by passing a reasoned order within specified period of time. It appears from the materials on record that on December 24, 2009, the Director General, West Bengal Fire and Emergency Services passed one reasoned order by making observation that there is pay disparity in case of applicant nos. 1 and 2 and the husband of the applicant no. 3 and others and as such the matter was referred to Department of Fire and Emergency Services, Government of West Bengal for decision. The contention of the present applicants is that they are not aware of any decision taken by state respondents. The applicants were silent without taking any action for almost 7 years. On June 17, 2016, the applicants submitted one representation before the respondent no. 1 praying for financial benefits due to pay anomaly. Without pursuing the remedy immediately after passing of reasoned order passed by Director General, West Bengal Fire and Emergency Services, the applicants have approached the Tribunal almost after 8 years by filing the present original application on January 10, 2017 and long after almost 12 to 13 years of retirement of the applicant nos. 1 and 2 and deceased husband of the applicant no. 3.

Having heard Learned Counsel for the applicant, Learned Counsel for the state respondents and the Departmental Representative of respondent AG (A&E), West Bengal, we are of

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the view that the present application is clearly barred under section 21 of the Administrative Tribunals Act, 1985. No explanation is forthcoming before us as to why the applicants did not approach the Tribunal within the period prescribed under section 21 of the Administrative Tribunals Act, 1985. Accordingly, we cannot persuade ourselves to go into the merit of the application. The present application is, thus, **dismissed**.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib