

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 484 OF 2015**

Nirmal Chandra Saha 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 27.09.2018	<p><b>For the Applicant : Mr. A.K. Das Sinha, Mrs. M.D. Chowdhury, Learned Advocates.</b></p> <p><b>For the Respondent Nos.1 to 3 : Mr. S. Bhattacharjee, Departmental Representative.</b></p> <p><b>For the Respondent No.4 : Mr. B.P. Roy, Learned Advocate.</b></p> <p><b>For the AG (A&amp;E),WB : Mr. B. Mitra, Departmental Representative.</b></p> <p>The applicant has prayed for direction upon the respondents to pay interest to the applicant on the amount of retiring gratuity, commuted value of pension and arrears of pension.</p> <p>The applicant retired from service as District Compensation Officer, Malda on November 30, 2002. It appears from the materials on record that a criminal case being Malda Police Station Case No. 21 of 1993 under section 420/468/379/120B/114 of the Indian Penal Code was started against the applicant while he was in service. It further appears from record that departmental proceeding was also started against the applicant before his retirement from service. The applicant moved the Tribunal challenging disciplinary proceeding started against the applicant and other ancillary reliefs. Without getting any favourable order from the Tribunal, the applicant ultimately moved writ application</p>	

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being WPST 550 of 2010 before the Hon'ble High Court at Calcutta. On December 16, 2010, the Division Bench of the Hon'ble High Court disposed of WPST 550 of 2010 by quashing the disciplinary proceeding pending against the applicant. The Hon'ble High Court gave direction to the respondents of the writ application for disbursement of all admissible retirement benefits to the applicant within a period of three weeks from the date of communication of the order. It appears from the order passed by the Hon'ble High Court in CRR No. 1855 of 2005 that the criminal proceeding pending against the applicant was quashed on February 5, 2007. The grievance of the applicant is that retirement benefits were not given to the applicant in spite of quashing of the criminal proceeding by the Hon'ble High Court on February 5, 2007 and quashing of the disciplinary proceeding by the Division Bench of the Hon'ble High Court on December 16, 2010.

Mr. Das Sinha, Learned Counsel representing the applicant contends that the applicant is entitled to get interest on all retirement benefits from the date of his retirement till the date of disbursement of the retiral benefis in favour of the applicant. On the other hand, the Departmental Representative of the state respondents contends that the applicant was not entitled to get gratuity and pension during pendency of the disciplinary proceeding or during pendency of the criminal case against him. By referring to the order passed by the disciplinary authority on March 20, 2014, he further submits that punishment was imposed on the applicant by the disciplinary authority on March 19, 2009

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and the said order of punishment and the entire disciplinary proceeding was dropped only on March 20, 2014 on the basis of direction given by the Division Bench of the Hon'ble High Court on December 16, 2010 in WPST 550 of 2010.

We have also heard Mr. Mitra, the Departmental Representative of respondent AG (A&E), West Bengal and Mr. Roy, Learned Counsel representing some of the state respondents.

The applicant has prayed for interest on the amount of retiring gratuity of Rs.1,99,415/-, commuted value of pension to the tune of Rs.1,68,534/- and also on arrears of pension to the tune of Rs.13,92,442/- paid on August 5, 2014 and on three different dates i.e. August 30, 2014, September 27, 2014 and October 31, 2014 respectively. The question of disbursement of retirement benefits of the applicant does not arise during pendency of the criminal case against him and during pendency of disciplinary proceeding against him. We have already observed that the criminal proceeding pending against the applicant was quashed by the Hon'ble High Court on February 5, 2007. There is nothing on record to indicate that the said order of the Hon'ble High Court was communicated to the Pension Sanctioning Authority by the applicant at any material point of time. The disciplinary proceeding pending against the applicant was quashed by the Hon'ble High Court on December 16, 2010 by an order passed in WPST 550 of 2010. Since the applicant has claimed to have received the amount of retiring gratuity and commuted value of pension on

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August 5, 2014 and since the said retirement benefits were not disbursed within the time frame given by the Hon'ble High Court in the order dated December 16, 2010 passed in WPST 550 of 2010, the applicant is entitled to get interest on the amount of retiring gratuity from the month of January 2011 to July 31, 2014.

With regard to interest on commuted value of pension, we find from record that the applicant has received the full amount of pension till July 7, 2014 and no deduction was made on account of commutation of pension of the applicant till July 7, 2014. The commuted value of pension was fixed on July 8, 2014 and as such, the question of payment of interest on commuted value of pension does not arise, particularly when the applicant has received commuted value of pension to the tune of Rs.1,68,534/- on August 5, 2014.

With regard to the interest on arrears of pension to the tune of Rs.13,92,442/- disbursed on three different dates in the month of August, September and October of the year 2014, we would like to observe that the amount of pension is increased with increase of dearness relief from time to time and as such interest on the entire amount of arrears of pension paid in the month of August, September and October of 2014 cannot be awarded at flat rate in a reasonable manner. However, the arrears of pension to which the applicant was entitled till January 3, 2011 (i.e. after lapse of three weeks from the date of the order passed by the Hon'ble High Court for payment of all admissible retirement benefits to the applicant

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after quashing of the disciplinary proceeding against him) may be taken into consideration for payment of interest accrued thereon from the month of January 2011 till July 31, 2014.

By taking into consideration the interest paid on GPF or PPF and rate of interest paid on long term fixed deposit by the nationalised bank, we are of the view that the applicant is entitled to get interest @ 8% per annum.

In view of our above findings, the respondent no. 4, District Magistrate and Collector, Malda is directed to pay interest to the applicant @ 8% per annum on the amount of retiring gratuity of Rs.1,99,415/- during the period from January 1, 2011 to July 31, 2014 and interest @ 8% per annum on the amount of arrears of pension to which the applicant was entitled till January 3, 2011 for the period from January 3, 2011 to July 31, 2014 within a period of 12 (twelve) weeks from the date of communication of the order.

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

Let urgent xerox certified copy of the order be supplied to the parties, if applied for, on priority basis after observance of all necessary formalities.

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

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

Sanjib