

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 506 OF 2015**

Bikash Ranjan Sarkar 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
15 <hr/> 26.06.2018	<p>For the Applicant : Mr. S.N. Ray, Learned Advocate.</p> <p>For the Respondents : Mrs. M. Mallick, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant joined in the post of Medical Technologist on June 20, 1979 and retired on December 31, 2014. The contention of the applicant is that he has not been given pension and other retirement benefits and that he is getting provisional pension on the basis of the interim order passed by the Tribunal. It appears from letter dated December 31, 2014 issued by the Senior Accounts Officer of AG (A&E), West Bengal that the AG (A&E), West Bengal wanted to know from the respondent no. 5 the details of the order issued by the Finance Department, Government of West Bengal in favour of the applicant for granting higher scale of pay. The reply given by the respondent no. 5 on January 22, 2015 indicates that the applicant was given scale of pay of Rs.425-1050/- in accordance with the order of the Hon'ble High Court at Calcutta. The fixation of pay of the applicant was revised from time to time in accordance with the provisions of ROPA, 1990, 1998 and 2009 and benefit of Career Advancement was also given</p>	

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for completion of 10 years of service/20 years of service/25 years of service on the basis of the order of the Hon'ble High Court passed on July 8, 1991 and on April 11, 1994. The reply of the respondent no. 5 further indicates that the order passed by the Learned Single Judge of the Hon'ble High Court was set aside on appeal on April 6, 1998. When the State preferred Special Leave Petition before the Hon'ble Supreme Court of India, the matter was remitted back to the High Court and fresh hearing was done on September 26, 2001 and order was passed in favour of the State of West Bengal. The petitioners who moved the Hon'ble High Court at Calcutta filed an application for modification and reconsideration of the order dated September 26, 2001, but the Hon'ble High Court gave liberty to the petitioners to submit representation and directed the State to pass a reasoned order. The copy of the reasoned order passed in compliance with the direction of the Hon'ble High Court on May 10, 2006 is placed on record by Learned Counsel for the applicant.

It appears from the said reasoned order dated May 10, 2006 passed by the Principal Secretary to the Government of West Bengal, Finance Department that there was no question of rationalisation of pay scales in the basic grade as there was only one basic pay scale in

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the basic grade available under the provisions of Revision of Pay & Allowances Rules applicable to the petitioners of the writ petition. In view of the facts disclosed above, the pay of the applicant is required to be refixed for deciding entitlement of the applicant for pension and other retirement benefits.

The state respondents have taken the specific plea in paragraph 4(f) that pay of the applicant is required to be refixed as per provisions of the rules and overdrawn amount, if any should be recovered from the retirement benefits of the applicant. On the other hand, the applicant has stated in paragraph 9 and 16 of the rejoinder that no amount of money is overdrawn by the applicant and thereby the question of recovery of overdrawal amount does not arise. In this regard, we would like to observe that the pay of the applicant is required to be fixed as decided by the Hon'ble High Court and observations made by the then Principal Secretary to the Government of West Bengal, Finance Department in the reasoned order communicated under letter dated May 10, 2006 which is placed on record. The applicant has prayed for direction upon the respondents to release retirement benefits and has also prayed for quashing of the letter dated December 31, 2014 issued by the Senior Accounts Officer of AG (A&E), West

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Bengal.

On consideration of the letter dated December 31, 2014 issued by Senior Accounts Officer of AG (A&E), West Bengal, we find that the Senior Accounts Officer has only asked for necessary Government Order issued by the Finance Department for fixation of higher scale of pay of the applicant. We do not find any illegality or irregularity in issuance of the said letter dated December 31, 2014 and as such, the question of quashing of the said letter does not arise at all. With regard to the other prayer of the applicant, we are inclined to give direction to the respondent no. 2 for taking decision in respect of entitlement of the applicant for pension and other retirement benefits.

Accordingly, we direct the respondent no. 2, Director of Health Services, West Bengal to take a decision about entitlement of the applicant for pension and other retirement benefits on the basis of orders passed by the Hon'ble High Court from time to time and the reasoned order passed by the Principal Secretary to the Government of West Bengal, Department of Finance within a period of **12 (twelve) weeks** from the date of communication of the order and to communicate the result of the same to the applicant and other appropriate authorities within a period of **2 (two) weeks** thereafter.

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<p>Sanjib</p>	<p>With the above direction, the original application is disposed of.</p> <p>Let a plain copy of this order be supplied to all the parties.</p> <p>(S.K. DAS) MEMBER(A)</p> <p>(R. K. BAG) MEMBER (J)</p>	
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