

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 645 OF 2018

Dr. Siddhartha Swarup Sarker 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
02 12.10.2018	<p>For the Applicant : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For the Respondent : Mr. S.N. Roy, Nos. 1-5 Mr. S. Ghosh, Learned Advocates.</p> <p>For the PSC, WB : Mr. A.L. Basu, Learned Advocate.</p> <p>The original application is admitted for hearing. The applicant has prayed for an interim order for grant of provisional pension on the ground that the applicant is facing inconvenience and hardship for not getting any retirement benefit after completion of his tenure as Member of Public Service Commission, West Bengal on August 20, 2016.</p> <p>Mr. Banerjee, Learned Counsel appearing for the applicant, contends that the issue of Voluntary Retirement of the applicant from State Service w.e.f. July 31, 2014 is disputed. He further submits that the benefit of pensionable service under the State of West Bengal admissible to the applicant as Member of Public Service Commission, West Bengal under the provisions of Regulation 8 (1) of West Bengal Public Service Commission (Condition of Service and Miscellaneous Provision) Regulation, 1953 needs to be decided for the purpose of grant of retirement benefit to the applicant. He also submits that the applicant has</p>	

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not received any retirement benefit including Pension, Gratuity, Leave Encashment and Group Insurance after completion of almost 35 years of service in the year 2016.

Mr. Basu, Learned Counsel representing the respondent Public Service Commission, West Bengal, contends that this Tribunal has no jurisdiction to decide all the issues involved in the present application. Similarly, Mr. S.N. Ray, and Mr. S. Ghosh, Learned Counsel representing the respondent nos. 1 to 5 also submit that this Tribunal has no jurisdiction to decide all the issues involved in the present application.

Having heard Learned Counsel representing all the parties and on consideration of the fact that this Tribunal has the jurisdiction to decide the issue of grant of retirement benefits of the applicant for his service under the State of West Bengal till the date of his voluntary retirement from the State Service on July 31, 2014 and as such, we are of the view that this Tribunal can pass an interim order in favour of the applicant at this stage.

Since the applicant has not received any retirement benefit after rendering almost 33 years of service under the State of West Bengal till July 31, 2014 for not resolving the dispute whether the applicant is entitled to get the benefit under Regulation 8 (1) of West Bengal Public Service Commission (Condition of Service and Miscellaneous Provision) Regulation, 1953, we are inclined to pass an interim order for grant of provisional pension in favour of the applicant. However, the

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issue of maintainability of the original application remains open for the final decision of the Tribunal.

In view of our above findings, the respondent no. 2, Principal Secretary to the Government of West Bengal, Personnel and Administrative Reforms is directed to grant provisional pension in favour of the applicant for the service rendered by the applicant under the State of West Bengal w.e.f. September 1, 2016 within a period of 8 (eight) weeks from the date of communication of the order. This interim order is passed without causing any prejudice to the rights and contentions of the parties to be decided in the present application.

The respondents are directed to file reply within a period of 4 (four) weeks after expiry of Puja Vacation and rejoinder, if any, may be filed by the applicant within a period of 2 (two) weeks thereafter.

List the matter under the heading "**Reply/Rejoinder**" on **12.02.2019**.

Let **urgent plain copy** of this order be supplied to all the parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib