

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 777 of 2018

Sankar Nath Laha 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
05 16.01.2020	<p>For the Applicant : Mr. M. Karim, Learned Advocate.</p> <p>For the Respondent : Mr. S.K. Chakraborty, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents for giving the benefit of service in terms of the letter dated December 12, 2017 issued by the respondent no. 5 after setting aside letter dated August 30, 2018 issued by the said respondent no. 5.</p> <p>The applicant joined in the Government service as Task Taker at Dum Dum Central Jail now re-designated as Dum Dum Central Correctional Home on December 19, 1986. He joined in the scale no. 6 i.e. Rs.300-685/- in terms of West Bengal Services (Revision of Pay & Allowances) Rules, 1981 (in short, ROPA Rules, 1981). He got the benefit of higher scale no. 09 in terms of ROPA Rules, 1981 with effect from the date of joining in the service by virtue of the order passed by the Hon'ble High Court at Calcutta in C.O. No. 1068(W) of 1988. The contention of the applicant is that he got the benefit of CAS and MCAS after completion of 10 years and 16 years of satisfactory service. He</p>	

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also got promotion initially to the post of Overseer in the scale of pay of Rs.4000-8850/- and subsequently in the post of Foreman in the scale of pay of Rs.4500-9700/-. Ultimately, the applicant retired from service on November 30, 2014. The pay of the applicant was refixed after his retirement from service and the total emoluments was reduced while calculating benefit of CAS and MCAS by taking into consideration the basic pay of scale no. 6 at the time of his initial joining in the service. Being aggrieved and dissatisfied with the refixation of pay of the applicant on July 22, 2016, he moved this Tribunal by filing OA 627 of 2017 which was disposed of on August 21, 2017. By order dated August 21, 2017 passed in OA 627 of 2017, this Tribunal directed the respondent no. 5 to weigh the applicability of the case of one Nitesh Chandra Roy v. State of West Bengal & Ors. (OA 46 of 2010 disposed of on July 15, 2015) on the basis of the prayer made by the applicant in his representation within specific period of time.

The respondent no. 5 considered the applicability of the case of Nitesh Chandra Roy (supra) for giving appropriate relief to the applicant and had written a letter to the respondent no. 1 on December 12, 2017. The proposal of the respondent no. 5 was rejected by the Department of Correctional Administration as reflected from the letter dated July 5, 2018 issued by the Additional Secretary to the Government of West Bengal, Department of Correctional Administration.

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With the above factual matrix, Mr. Karim, Learned Counsel for the applicant, contends that the applicant is entitled to enjoy the scale of pay in which he retired from service as the same benefit, which is enjoyed by the applicant, is also enjoyed by Nitesh Chandra Roy, Ex-Workshop Foreman of Presidency Correctional Home in terms of order passed by this Tribunal in OA 46 of 2010. On the other hand, Mr. Chakraborty, Learned Counsel representing the state respondents, submits that the Department of Correctional Administration of the Government of West Bengal has turned down the proposal of respondent no. 5 and as such the applicant is not entitled to get the benefits as prayed for.

We have also heard Mr. Mitra, the Departmental Representative of the respondent AG, West Bengal.

On consideration of the materials on record, we find that the respondent no. 5 has written one letter to the applicant on August 30, 2018 by which the said respondent communicated that the benefit of career advancement scheme granted in favour of the applicant by taking into consideration upward revised pay scale of 9 in terms of the order of the Hon'ble High Court was not justified as the said benefit of pay scale was given to the applicant as his personal pay and thereby re-fixation of pay of the applicant after his retirement is justified. This letter was perhaps issued by the respondent no. 5 on August 30, 2018 on the basis

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of representation submitted by the applicant separately on August 13, 2018 and as such the same cannot have any bearing on the proposal sent by respondent no. 5 on December 12, 2017. However, the Department of Correctional Administration has rejected the proposal of the respondent no. 5 for giving benefit to the applicant at par with one Nitesh Chandra Roy in terms of order passed in OA 46 of 2010 and one Madhu Sudan Garai in terms of order passed in OA 60 of 2015 as reflected from the letter dated July 5, 2018 issued by the Additional Secretary to the Government of West Bengal, Department of Correctional Administration (Annexure R1 to the reply of the state respondents). On consideration of the said letter, we find that no reasons have been assigned by the said Additional Secretary to the Government of West Bengal for turning down the proposal of the respondent no. 5. Nor do we find that the said Additional Secretary had taken into consideration the case of Nitesh Chandra Roy (supra) and the case of Madhu Sudan Garai (supra) as indicated by the respondent no. 5 in his letter dated December 12, 2017 for the purpose of either allowing or rejecting the benefit to the applicant. What is surprising is that the Additional Secretary has enclosed one note of the Finance Department, Government of West Bengal which was given in the year 2015 for the purpose of rejecting the proposal of the respondent no. 5. In our view, the decision communicated by the Additional Secretary to the Government of West Bengal in the letter dated July 5, 2018 (Annexure R1 to the reply of the

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state respondents) is not at all justified under the law and the same is liable to be struck down. The proposal of respondent no. 5 given in the letter dated December 12, 2017 must reach to its logical conclusion.

In view of our above findings, the letter issued by the Additional Secretary to the Government of West Bengal, Department of Correctional Administration on July 5, 2018 (Annexure R1 to the reply of the state respondents) is set aside. The letter sent by respondent no. 5 on August 30, 2018 is also quashed. The respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Correctional Administration is directed to consider afresh the letter dated July 12, 2017 issued by the respondent no. 5, OSD & Ex-Officio Director General and Inspector General of Correctional Services, West Bengal for taking decision whether the applicant is entitled to get the benefit which was given to Nitesh Chandra Roy in OA 46 of 2010 and to Madhu Sudan Garai in OA 60 of 2015 by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow up action, if any, within a period of 8 (eight) weeks thereafter.

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

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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