

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 882 OF 2015**

Smt. Sandhya Datta 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 05.12.2018	<p>For the Applicant : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for fixation of pay of the applicant by giving benefit of 20 years' Career Advancement Scheme on cancellation of order contained in letter dated September 17, 2014 issued by the respondent no. 4, by which prayer of the applicant for giving benefit of Career Advancement Scheme was turned down.</p> <p>The applicant joined in the Government service as ANM on June 15, 1970 and retired from the post of Staff Nurse Grade-II on January 31, 2011. The contention of the applicant is that the applicant is entitled to get one increment at the time of fixation of pay for 20 years benefit of Career Advancement Scheme for which the applicant submitted application for change of option on October 5, 2009. The prayer of the applicant was turned down by the respondent no. 4 on the ground that the applicant has already retired from service and that the prayer for change of option is barred under the provisions of Memorandum dated February 4, 2011 issued by the Finance Department, Audit Branch, Government of West Bengal. The impugned letter dated September 17, 2014 is under challenge in the present</p>	

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application.

Mr. Banerjee, Learned Counsel for the applicant, submits that prayer of the applicant for change of option was turned down on the grounds which are not relevant for determination of the issue of giving increment to the applicant for fixation of pay at the time of giving benefit of Career Advancement Scheme. On the other hand, Mr. Ghosh, Learned Counsel for the state respondents, submits that the issue of change of option cannot be reopened long after 27 years of exercise of option by the applicant.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we are of the view that the applicant should have submitted application for change of option immediately after getting the benefit of 20 years of Career Advancement Scheme. However, prayer of the applicant was turned down by the respondent no. 4 on the ground of retirement of the applicant from service, which we consider is not germane to the issue in question. If the applicant was entitled to get the benefit of increment by changing option for fixation of pay at the time of Career Advancement Scheme for completion of 20 years of continuous and satisfactory service, the same can be done by the authority concerned after giving the applicant notional benefit from the date of entitlement till the date of retirement.

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In view of our above findings, the impugned letter dated September 17, 2014 is quashed. The respondent no. 3, Director of Health Services, West Bengal is directed to consider the prayer of the applicant for change of option for refixation of pay for getting benefit of Career Advancement Scheme after completion of 20 years of service by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of the order and communicate the same to the applicant within a period of 4 (four) weeks thereafter. If any financial benefit is accrued in favour of the applicant for change of option, the said benefit will be given to the applicant notionally from the date of accrual of benefit till the date of retirement. On the other hand, if any amount is found to have been overdrawn by the applicant due to change of option, the said excess payment will be recovered from the applicant in accordance with law.

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

Let a plain copy of this order be supplied to both parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib