

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 90 OF 2017**

Dr. Shreyasi Ray 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
09 28.11.2018	<p>For the Applicant : Mr. M.N. Roy, Learned Advocate.</p> <p>For the Respondents : Mr. S. N. Ray, Learned Advocate.</p> <p>For the AG (A&amp;E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents to grant her balance of GPF, gratuity and benefit of leave encashment.</p> <p>It appears from the materials on record that the applicant joined as RMO-cum-Clinical Tutor in the Department of Anesthesiology under West Bengal Medical Education Service and posted in the Medical College and Hospital, Kolkata on January 22, 2011. It appears from the document marked Annexure-B to the original application that the applicant was permitted to resign from the post of Assistant Professor of Anesthesiology , Medical College and Hospital, Kolkata w.e.f. April 19, 2016 in order to join her new assignment as Assistant Professor of Anesthesiology in ESIC Medical College, Joka in terms of Rule 34A of WBSR, Part-I. Since the applicant was permitted to resign from the post of Assistant Professor of Anesthesiology in Medical College and Hospital, Kolkata in order to join her new assignment in another Medical College, the said</p>	

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resignation cannot entail forfeiture of her past service as per provisions of Rule 33 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 (in short DCRB Rules, 1971).

With the above factual matrix, the issue for determination of the Tribunal is whether the applicant is entitled to get balance amount of GPF, benefit of leave encashment and gratuity. Mr. M.N. Roy, Learned Counsel submits that the applicant has received the balance amount of GPF and as such he is not pressing for the amount of GPF. On consideration of the provisions of Rule 168A (5) (ii) read with provisions of Rule 170 (2) (a) of WBSR Part-I, we find that a Government employee who resigns or quits service may be granted cash equivalent of earned leave at the credit of the employee on the date of cessation of service on the basis of calculation at the rate of 2½ days for completion of one calendar month till the date of resignation, subject to maximum of 120 days. The applicant has served for more than 5 years and she is entitled to get leave encashment in respect of earned leave at her credit till the date of acceptance of her resignation on April 19, 2016. Similarly, on consideration of provisions of Rule 67 of the DCRB Rules, 1971, we find that a Government employee serving for less than 10 years is entitled to get gratuity at the rate enumerated in the said Rule.

Having heard Learned Counsel representing the

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applicant, Learned Counsel representing the state respondents and the Departmental Representative of the respondent AG (A&E), West Bengal, we direct the respondent no. 4, Principal, Medical College and Hospital, Kolkata to consider the entitlement of the applicant to grant benefit of leave encashment in terms of Rule 170 (2 (a) and Rule 168A (5) (ii) of West Bengal Service Rules, Part-I and benefit of service gratuity in terms of Rule 67 of the DCRB Rules, 1971 within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow up action for disbursement of the entire amount in favour of the applicant within a period of 4 (four) weeks thereafter.

With the above direction, the original application stands **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