

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta(Sen), Member(J).

Case No. – MA 59 of 2021(OA 429 of 2020)

ASHOKE DEB - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy Advocate
	For the State respondents	: Ms. S. Agarwal Advocate
<u>05</u> 26.08.2021	Departmental Representative	: Mr. B. Mitra Pr. AG(A&E), WB

The matter is taken up by the single Bench pursuant to the Notification No.949-WBAT/2J-15/2016 dated 24th December, 2020 and 456-WBAT/2J-15/2016 dated 16th July, 2021 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

The instant MA has been filed praying for extension of time for 6(six) months to conclude the Disciplinary Proceedings as vide order dated 23.12.2020 passed in OA No. 429/2018, this Tribunal had already directed the Respondents to conclude the Disciplinary Proceedings within a period of 6(six) months from the date of receipt of the order. Further, it has been directed to provide provisional pension and other retiral benefit as per rule within a period of one month and the Applicant is also directed to co-operate with the Authority to complete the said proceedings. Though there was no such allegation with the Applicant that he did not co-operate with the Disciplinary Authority, however, the Counsel for the Respondent in the instant MA has prayed for further 6(six) months time as there was an allegation of misuse of more than 68 crore rupees Government Exchequer.

However, the Counsel for the Respondent of the instant MA has objected that this Tribunal had already granted 6(six) months time to complete the proceedings. Further, the Tribunal ordered to make payment of provisional pension and other pensionary benefit. However, the disciplinary proceedings have been completed. Further he has only been provided with provisional pension till the month of April,

2021 and thereafter the provisional pension of the Applicant has been stopped though there was a clear direction of this Tribunal to make such payments. The Counsel for the Applicant in the instant MA has submitted that the Authority has to make payment of provisional pension for one year only as per the Memo. No.10000-F, dated 13.09.1982. It has been submitted that file is lying before Finance Department since 17.08.2021.

Heard the parties and perused the records. It is noted that this Tribunal, vide order dated 23.12.2020 had ordered to make payment of provisional pension and other pensionary benefit within six months. But admittedly from the month of May, 2021, the Applicant is not been receiving any provisional pension. However, for that purpose, no extension of time has been asked for by the Official Respondents. Rather, after granting of time also they have not paid the provisional pension on the ground that as per memorandum dated 13.09.1982, the Department has to ask for Finance Department's concurrence for making payment whereas as per rule 10(2) of DCRB Rules, 1971, the provisional pension has to be paid till the disposal of the disciplinary proceedings. Even it is noted that the Department concerned had sent the proposal for concurrence to the Finance Department on 17.08.2021 only, i.e. after passing the order dated 12.08.2021 by this Tribunal whereby the Tribunal directed the Respondent Authority to make payment of official benefits. However, the Respondent Authority has prayed for a last chance to take appropriate steps in this regard.

Therefore, in view of the above, let the matter be adjourned to 02.09.2021 for further hearing.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

PKD

Urmita Datta(Sen)
Member