

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. MA – 64 of 2022 (OA – 79 of 2017)

Dilip Kumar Chowdhury - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No.	For the Applicant	: Mr. A.K. Pal,
and		Advocate
Date of order		
<u>6</u>	For the Respondents	: Ms. R. Sarkar,
23.08.2023		Mr. S. Debray,
		(Departmental Representatives)
		Land & Land Reforms Department.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels, the case is taken up for consideration sitting singly.

Mr. A.K. Pal, learned counsel submits that the first part of his prayer in O.A. 79 of 2017 relating to his arrear salary from 2014 to 2016 has already been fulfilled by the respondents. However, the second part of the same prayer relating to his promotion to the post of Amin with effect from 1st September, 2014 has not been considered yet by the respondent. Besides this, in the Miscellaneous Application No. 64 of 2022, he has also prayed for his retiral benefits including pension, gratuity and others.

On behalf of the respondents Ms. Sarkar submits that although the first part of the prayer has been fulfilled but the other prayers – promotion to the post of Amin and retiral benefits have been withheld due to the fact that a criminal case in which he is involved (P.S. Case No. 594/2014 under Burdwan Police Station) has not been closed. Such promotion cannot be granted in terms of Memo No. 224-P&AR(Vig) dated 12 June, 1980. A copy of the Memo has been filed be kept in record. A copy has also been served upon the applicant. This Memo appears to highlight that for awarding promotion, Vigilance Clearance will be required. Rule 14 states that any government servant being involved in a criminal proceedings shall not be sanctioned any pension until the termination of the criminal proceedings. So, since the criminal case against the applicant is still not yet closed, the respondent authority has not granted him his promotion and his retiral benefits. However, an interim allowance is being paid to the

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applicant as per rule.

Mr. Pal prays for liberty to file a judgement of the Hon'ble Apex Court in response to the points raised by Ms. Sarkar on the next date.

Let the matter appear under the heading 'For Orders' on 29.02.2024.

**SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P