

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA 752 of 2018

WB Subordinate Food & Supplies Service Association - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

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|---------------|--------------------------|----------------------|
| Serial No. | For the Applicant | : Mr. M.N. Roy, |
| and | | Mr. G. Halder, |
| Date of order | | Ld. Advocates. |
| <u>11</u> | For the State Respondent | : Mr. G.P. Banerjee, |
| 24.03.2021 | | Ld. Advocate. |

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

The instant application has been filed through the General Secretary, West Bengal Subordinate Food & Supplies Service Association being a legal entity and whose members are having a common interest in the instant application. The instant application, the petitioners have prayed for an extension of benefit of the decision of the Finance Department dated 19.11.2015. According to the applicant, the member of the Associations are similarly circumstanced with the employees, who were granted benefit of Scale No. 10 in accordance with the U/O reference No. 1059-Group P1 dated 19.11.2015. Earlier, the applicants came before in OA-240 of 2017, which was disposed of by order dated 16.05.2017 with a direction to the Principal Secretary, Food & Supplies Department, Government of West Bengal to dispose of the representation of the applicant within a stipulated period of time. In pursuance of the said order, the Principal Secretary, Food & Supplies Department, while principally agreed with the entitlement of the members of the association for extension of benefit of the Finance Department's decision dated 19.11.2015 vide his reasoned order dated 08.07.2018 had requested the Finance Department to review its earlier observation by way of referring the matter to the 6th Pay Commission. However, thereafter no decision and/or benefit of Scale No. 10 has been extended to the applicants. In the meantime, the some other similarly

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circumstanced employees, who had filed one OA-669 of 2016, were extended the benefit of the Scale No. 10 corresponding to Pay Band-3 with Grade Pay of Rs.3900/- from the date of joining of the Inspector of Food vide U/O dated 01.02.2021 by the Principal Secretary to the Government of West Bengal, Finance Department. Therefore, the counsel for the applicant has fairly submitted as the Principal Secretary, Food & Supplies Department had principally agreed with the extension of benefit of Scale No. 10 facilities to the members of the association and subsequently other similarly situated employees were also granted benefit by the Finance Department and in the meantime 6th Pay Commission has been dissolved. Therefore, the Principal Secretary, Finance Department, Government of West Bengal should be directed to extend the benefit of the U/O No. 1059-Group P1 dated 19.11.2015 and U/O No. Group P1/2020-2021/0345 dated U/O Date 01.02.201 under File No. : FIN-28011/20/2021-GROUP P1 SEC-Dept. of FIN.

The counsel for the respondent has submitted that it is an admitted fact that the Finance Department has already implemented the order of the Hon'ble High Court, Calcutta as well as the Hon'ble Apex Court and recently the Principal Secretary, Finance Department, Government of West Bengal on 27.01.2021 also agreed to allow the petitioners of OA No. 669 of 2016 for granting Scale No. 10 (corresponding to Pay Band-3 with Grade Pay of Rs.3900/-) from the date of joining of the Inspector of Food. Therefore, he has no objection if the benefit of the said Scale No. 10 would be extended to the similarly circumstanced employees of the association subject the verification of their entitlement.

Heard both the parties and perused the records as well as Finance Department's copy of U/O dated 01.02.2021, whereby the Principal Secretary, Finance Department, Government of West Bengal had agreed to extend the benefit of Scale No. 10 on 27.01.2021. Let the copy of the order be kept on

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record. From the perusal of the record as well as submission made by both the parties, it is noted that the issue of grant of Scale No. 10 to the Inspector of Food, Department of Food & Supplies, Government of West Bengal, has already been decided by the Hon'ble High Court, which was affirmed by the Hon'ble Apex Court. Even in the case of the applicant, the Principal Secretary, Food & Supplies Department had principally agreed with the issue of grant of extension of benefit of Scale No. 10 vide his order dated 08.07.2018, which is as follows :

“In view of the above facts and circumstances, since the WBAT has cast a duty upon the undersigned to dispose of the representation of the applicants, I need to decide the matter appropriately keeping in view equity and justice and also keeping in view various decisions of Hon'ble Supreme Court, High Court and WBAT. After perusal of the case records, I am of the opinion that the applicants deserve to be treated similarly as other Food & Supplies Inspectors, who are enjoying Scale No. 10. However, the decision of the undersigned is dependent upon the concurrence of the Finance Department, Government of West Bengal and hence the Finance Department was requested to review its earlier observation regarding referring the matter to the 6th Pay Commission and concur for the grant scale No. 10 to the applicants of OA No. 240 of 2017 in accordance with the earlier decision of the Finance Department made vide U.O. No. 1059 Group P1, dated 19.11.2015. Finance Department however reiterated for referring the matter to the 6th Pay Commission.

Hence, the undersigned has no option but to refer the matter to the 6th Pay Commission with a recommendation for grant scale No. 10 to all the Inspectors of the Food & Supplies Department covered by OA No. 240 of 2017.

The DP Cell of this Department may take necessary steps accordingly and sent a request to the 6th Pay Commission along with the copy of this order for consideration.”

Though, thereafter no decision had been communicated or any benefit has been extended to the present petitioners. However, the Principal Secretary,

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Finance Department himself has extended the benefit of Scale No. 10 to the other similarly circumstanced employees of OA-669 of 2016. Therefore, the respondent nos. 2 and 3 are directed to consider the case of the applicants in the light of the order dated 08.07.2018 as well as order dated 27.01.2021 and to extend the benefit of Scale No. 10 after verifying the individual cases of the members of the association and communicate their decision by way of a reasoned and speaking order along with follow up action, if any, within a period of 16 (sixteen) weeks from the date of communication of the order.

Accordingly, the OA is **disposed of** with no order as to cost.

The parties are directed to act upon the Website copy of the order.

Mrs. URMITA DATTA (SEN)
MEMBER (J)

SS/CSM