

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. OA – 842 of 2019

Sagar Kr. Hansda & Ors. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>14</u> 13.06.2022	For the Applicants	: Mr. B. Chakraborty, Mrs. S. Agarwal, Advocates
	For the Respondents	: Mr. G.P. Banerjee, Mr. B.P. Roy, Advocates

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt. – II) dated 11th February, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

The instant application has been filed praying for following relief:

“a) An order be issued directing the respondents to grant scale no. 10 under ROPA Rule 1990 to the applicants on and from 01.01.1986 or from the date of appointment to the post of Inspector and to pay all consequential benefits including fixation of pay under subsequent ROPA Rule, 1998 and ROPA Rule 2009 and the arrear pay as may arise due to change of scale of pay time to time notwithstanding any recommendation as may or may not be made by the pay commission.

b) To re-fix the pay of the applicants at the corresponding scales of pay under ROPA Rules, 1998 and/or ROPA Rule 2009 respectively.

c) To revise and pay and/or pension and other consequential reliefs on the basis of such re-fixation of pay to the applicants who had retired from service.

d) Any other order and/or orders and/or further orders as this Hon'ble Tribunal may deem fit and proper for administration of justice.”

The counsel for the applicant has submitted that the applicants had approached earlier before this Tribunal in O.A. No. 685 of 2017, which was disposed of vide order dated 21.08.2017 with a direction to the Principal Secretary, Food and Supplies Department to take decision as to whether the applicants are similarly circumstanced with the applicants of O.A. No. 812 of 2013 (West Bengal Subordinate Food and Supplies, West Bengal Association and Others –vs- State of West Bengal and Others) or not, which was disposed of vide order dated 13.07.2015. In compliance to that though the respondents issued an order dated 15.01.2019 (Annexure ‘P-6’) and found them similarly situated to

the applicants of O.A. No. 812 of 2013, however, their case was referred to the 6th Pay Commission. Therefore, the scale of the applicants could not be fixed. Being aggrieved with, the applicants have filed this instant application.

During the course of the hearing, the counsel for the applicant has submitted that it would suffice their purpose, if the respondent authority would be directed to take final decision and take appropriate steps.

The counsel for the respondents has submitted that he has no objection to take final decision. However, it has been submitted that since the applicants approached this Tribunal in 2017 only, therefore, their arrear pay may be guided by the decision of the Hon'ble Apex Court in the case of Union of India and Others –vs- Tarsem Singh reported in (2008) SCC 648.

During the course of the hearing, the counsel for the applicants has referred one order dated 24.03.2021 passed in O.A. No. 752 of 2018. In pursuance to that, the respondents had issued one order dated 23.11.2021. Therefore, the counsel for the applicant has prayed that their case may be considered in the light of the decision of the respondent. They may be extended the benefit of this order dated 23.11.2021 also.

Heard the parties and perused the records. It is admitted fact that the applicants earlier had approached this Tribunal in O.A. No. 685 of 2017, wherein this Tribunal vide order dated 21.08.2017, had directed the authority to take decision with regard to the eligibility of the applicants. However, though the respondent had observed vide their order dated 15.01.2019 that the applicants are similarly situated; however, they had referred it to the 6th Pay Commission for final decision.

In view of the above, the Respondent No. 2 is directed to take final decision in this regard and communicate the same to the applicants by way of speaking and reasoned order and to take follow up action, if any, by eight weeks from the date of receipt of the order. Accordingly, the O.A. is disposed of.