

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. –OA 192 OF 2020

NRIPENDRA KRISHNA ROY - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

06
26.11.2021

For the Applicant : Mr.N.K.Roy
(Appears in person)

For the State respondents : Mr.S.N.Ray
Advocate

For the Principal Accountant General
(A&E) West Bengal : Mr.B.Mitra
(Departmental Representative)

Let affidavit of service filed today be kept on record.

In this application, Nripendra Krishna Roy, the applicant has prayed for several reliefs, which are as under:-

“ a) *Immediate payment of leave encashment and commutation of pension as the rules under Superannuation be allowed to the applicant.*

b) *The pension being received by Sri Narayan Chattapadhay Junior in Seniority List should be made equal and applicable to the applicants in this suit.*

c) *The payment of interest for the delay in disbursal of the pension be allowed to the applicant.*

d) *The applicant's other benefits be allowed which may subsequently arise or come to mind.”*

It appears that the applicant, prior to his appointment in the Directorate

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of Commercial Taxes was in the Department of Customs & Central Excise, Patna. After being successful in the WBCS- 1982 examination, the Public Service Commission, West Bengal recommended him for appointment. Since the applicant could not produce no objection certificate from the then employer, the Department of Custom and Central Excise, Patna, his allotment was passed over. Against the said action, the applicant moved before the High Court by filing a writ petition being C.O. No. 7480 (w) of 1983; Nripendra Krishna Roy Vs. Union of India & others and after hearing the applicant in person, the matter was disposed of on 30th September, 1986 by passing an order, the relevant portion of which is as under:-

“ The Public Service Commission shall recommend the name of the petitioner to the West Bengal Government for appointment in Group “A” service according to his merit as found in 1982 examination and he shall be allowed the seniority of 1982 candidates. He must be deemed to have been appointed with retrospective effect. All the formalities shall be complied with by the respondents within three months from the date of communication of this order.”

Thereafter on 17th December, 1987, the applicant joined the Director of Commercial Taxes and had superannuated on 31st January, 2014. The grievance of the applicant is that even after his retirement, the service book was not prepared by the authorities which was done belatedly in 2019 and thereafter he is getting pension which is less than his batchmate.

It is submitted by Mr.N.K.Roy, the applicant appearing in person, that direction may be issued upon the respondents to consider his claim for higher pension which is enjoyed by his batchmates and to release leave salary along

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with interest and also to allow commutation of pension. On a query, it is submitted by the applicant that he has received gratuity and other benefits.

Mr.S.N.Ray, learned advocate appearing on behalf of the State respondents submits if directed, the respondent authorities will consider the issues raised by the applicant in accordance with law.

Mr.B.Mitra, Departmental representative for the Principal Accountant General (A&E) West Bengal, adopts the submission of Mr.Ray.

Issues which come up for consideration is as under:-

- a) Whether the applicant is getting lesser pension compared to his batchmates, and if so, whether he is entitled to higher pension,
- b) Whether he is entitled to leave encashment and interest on delayed payment on the superannuation benefits, and
- c) Whether the applicant is entitled to commutation of pension.

Having heard Mr.N.K.Roy, the applicant in person, Mr.S.N.Ray and Mr.B.Mitra, the application is disposed of by directing the Commissioner, Commercial Taxes, Kolkata, the respondent no.2 to dispose of the issues raised, as stated in the previous paragraph, by passing a reasoned order to be communicated to the parties within a period of fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing to the applicant, after verifying the records and after considering the judgement passed in the case of the applicant by the High Court in C.O. No. 7480(w) of 1983 on 30th September, 1986 being annexed to the application. In the event it is found that issues raised by the applicant are correct, then the said respondent shall recommend for payment of the arrears to the Secretary, Finance Department, Government of

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West Bengal, Kolkata, the respondent no.1 that is with regard to the lesser payment of pension and non-payment of leave encashment along with interest at the rate of 6% per annum to be calculated from the date from which it had accrued to the applicant.

So far as the prayer for commutation of pension is concerned the applicant is at liberty to apply before the appropriate forum in accordance with law and the authorities will consider and pass appropriate order within fifteen weeks from the date of submission of application in accordance with law including undergoing the medical examination.

It is made clear that we have not gone into the merits of the matter and all issues raised by the applicant are kept open to be dealt with by the respondent no.2 and the said respondent shall come to a conclusion without being influenced by any of the observations made in this order save and except the issues raised as mentioned in this order.

BLR

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN