

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA 241 of 2022

Nagendra Singh -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. S.N. Ray,
Mr. D. Saha,
Ld. Advocates.

11
12.07.2023

For the State respondent : Mr. Shaon Bhattacharya,
Ld. Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) 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 for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has prayed for a direction to the respondent authority to sanction and disburse his monthly pension, provident fund, gratuity and other retiral benefits. The applicant was earlier issued a Show Cause Notice for tampering with the date of birth from the record as 22.04.1949 to 22.11.1957. A departmental proceeding then was initiated against the applicant for having “misled the department by suppressing his exact date of birth and thus having overstayed in Government service for more than 8 (eight) years”. After the conclusion of the departmental proceedings, the Milk Commissioner as the Disciplinary Authority passed the final order on 16.03.2022. After giving detailed reasons, the Disciplinary Authority mentions that all the charges levelled against the Charged Officer have been proved beyond doubt. The relevant part of the order is as under :

“Thus, a consideration of all the factors as mentioned above have led me to logically conclude that the actual date of birth of the petitioner Shri Nagendra Singh could never be 22.11.1957 and in stead, it was 22.04.1949. Moreover, submission of a school leaving certificate by him after his date of superannuation in 2010 does not absolve him from the charges of overstay in government service for near about 8 (eight) years causing wrongful gain for himself and wrongful loss to the state government.

“Hence it is ordered that the instant disciplinary proceedings against the charged employee Shri Nagendra Singh, the Ex-skilled operator of the central dairy, Belghachia, Kolkata is proved beyond doubt.

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“In this connection, it may not be out of place to mention that the 2nd show cause notice issued upon the petitioner during May, 2018 becomes infructuous because by that time the petitioner had already overstayed in service and completed 60 (sixty) years as per fake school certificate produced by him later”.

From the above facts, it is not clear whether the Disciplinary Authority had been authorised to issue such a final order under Rule 10(2) of Death-cum-Retirement Benefits Rules, 1971 since the charged officer had already retired. Further, it is not understood that this final order which does not impose any penalty on the applicant does not also mention anything about the pension and release of other retiral benefits to the applicant.

Mr. Shaon Bhattacharya, learned advocate for the State respondents prays for accommodation to seek instructions from the Department and file a reply, in particular on the observations made by the Tribunal in the foregoing paragraph.

Let the matter appear under the heading “**Further Hearing**” on **21.09.2023.**

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

HS/SS