

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-2535 of 2006

Baski Nath Dhabak & Anr. VERSUS – The State of West Bengal & Ors..

Serial No. and Date of order For the Applicant : Mr. G.P. Banerjee,
Mr. S. Chatterjee,
Learned Advocates.

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08.12.2022 For the State Respondents : Mr. S. Ghosh,
Learned 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.

The applicant as a Gauge Reader is praying for setting aside the impugned order of the respondent appearing at page 36. Earlier the Tribunal in a matter directed the authority to grant revised pay scale to all petitioner Gauge Readers. Pursuant to that, this applicant has also moved the Tribunal as being similarly circumstanced and praying for similar benefit as given in OA-292 of 2000 with a direction to the respondent to issue necessary order for granting the revised pay scale to all the petitioners in compliance to the Hon'ble High Court's order. In compliance, the respondent accordingly issued an order No. 1001-1E dated 10.07.2003 granting same scale of pay. The applicant states neither the Hon'ble High Court's order nor in the Tribunal's order the revised pay so granted was to be treated as a personal pay. From various administrative orders, it has been well proved

that the Scale of Pay of Rs. 385-1040-1920/- has been accepted as basic pay scale for the qualifying Gauge Readers. However, the Deputy Secretary vide Memo No. 1048-1E-21/05 dated 29.07.2005 issued an order to the effect that the revised pay granted by the Hon'ble High Court is the personal pay of individual petitioners and not basic grade pay scale of the post of Gauge Reader and, therefore, they would not be entitled to any benefit under CAS Scheme of 1990 or 2001. Thus, any effects of the benefits received under the CAS Scheme are to be refunded.

Mr. Banerjee appearing on behalf of the applicant submits that the impugned order be quashed and set aside and direction be given to the respondent to allow the applicant to continue with their pay scale and CAS benefits. Mr. Banerjee also relies on an order of the Tribunal in OA -11786 of 2007. In this order, the Tribunal had after consideration of the entire matter set aside the matching order of 29.07.2005 with further direction to grant benefit of CAS treating the scale awarded by the Hon'ble High Court as basic scale in terms of G.O. dated 21.06.1990. The relevant portion of the judgement is quoted under :-

“Accordingly, in the light of the above discussion, the present application is allowed. The orders dated 03.01.1995 and the relevant matching orders are quashed. The respondent authorities are directed to grant the benefit of CAS treating the scale awarded to the applicants in terms of the orders of the Hon'ble Court as basic scale in terms of G.O. dated 21.06.1990 followed by fixation in respect of

subsequent benefits in accordance with rules within a period of 3 months from the date of communication of the order. It is not permissible to deduct any amount paid to the applicants on account of earlier award of CAS/Modified CAS. If any such amount has already been deducted the same shall have to be refunded within 3 months from the date of communication of the order.”

Therefore, Mr. Banerjee submits that the applicant in this present application is also similarly circumstanced and the Tribunal may be pleased to pass an order similar to the order in OA -11786 of 2007.

Mr. Ghosh appearing on behalf of the state submits that this matter is already a settled matter by an order of the Tribunal in OA-11786 of 2007. The present applicant is also similarly situated as the applicants of OA-11786 of 2007. Therefore, an order directing the respondent to pass a reasoned order in the light of order in OA-11786 of 2007 will be appropriate.

Mr. Banerjee further submits that the benefits of this order may also be extended to the members of the deceased applicant B.N. Dhabak.

After hearing both the learned advocates and considering the facts and circumstances I agree that the applicant in this matter is also similarly circumstanced with that of OA-11786 of 2007.

In view of the above, I direct the Respondent No. 4, Director of Personnel & E.O. Chief Engineer to consider and

dispose of this matter in the light of the earlier Order of the Tribunal dated 26.08.2009 passed in OA-11786 of 2007 within three months from the date of receipt of this Order and to take up follow up action. While considering the matter OA-11786 of 2007, the respondent will also see if any amount had been deducted from the employee, the same amount shall be refunded within a period of three months from the date of communication of this order. In case of Respondent No. 1, who has expired during pendency of this case, if his legal heirs submit any written representation, the same shall be taken into consideration, similar to Respondent No. 2.

Accordingly, OA is disposed of.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

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