

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN.

Case No. – OA 407 of 2021.

Nivedita Sarkar. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

For the Applicant : Mrs. S. Mitra,  
Advocate.

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13.08.2021

For all the State Respondents : Mr. S. N. Ray,  
Advocate.

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

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24<sup>th</sup> December, 2020 and 456-WBAT/2J-15/2016 dated 16<sup>th</sup> July, 2021 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunal Act, 1985.

Let affidavit of service filed today be kept on record.

The applicant has prayed for certain reliefs, the relevant portion of which is as under :-

*“a).....An order do issue directing the respondent authorities to dispose of the representation dated 28.10.2019 filed by your applicant in terms of the liberty granted by this Hon'ble Tribunal in O.A. No. 529 of 2019 within a stipulated period of time.*

*b) An order do issue directing the respondent authorities grant all the benefits including 8/10 years CAS benefit from the due date in light of the Judgement dated 20.09.2007 passed in O.A. No. 1646 of 1998 (Shila Bhattacharya & Ors. –Versus- The State of West Bengal & Ors.) wherein the Social Welfare Officer's Association was one of the applicant and your applicant was member of the said association during her service tenure and as such is entitled to the benefits as given to*

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*others applicants of O.A. No. 1646 of 1998.*

*c) An order do issue directing the respondents authorities to forthwith re-fix the scale of pay of your applicant in the post of Supervisor (entry level) at pre-revised Scale No. 10 treating the same as personal to her in terms of Hon'ble Court's Order and grant her the CAS benefit of 8/10 years treating pre-revised scale no. 10 as basic scale (being personal to her) and to re-fix her pay and allowances accordingly within a stipulated period of time as this Hon'ble Tribunal deems fit and proper.*

*d) An Order do issue directing the respondent authorities to refund the overdrawn amount as well as pay her the arrears salary and the pension and pensionary benefits including arrears thereto after fixing her scale of pay in pre-revised Scale No. 10 in the entry level treating the same as personal to her in terms of the orders passed by the Hon'ble High Court and in terms of Para 2(viii) of Notification No. 6075-F dated 21<sup>st</sup> June 1990 being CAS 1990.....”..*

In this application, the applicant, who had superannuated on 31<sup>st</sup> October, 2015, has prayed for grant of 8/10 years CAS benefit and for revision of pay/pension in the light of the judgement dated 20<sup>th</sup> September, 2007 passed in O.A. No. – 1646 of 1998, judgement dated 11<sup>th</sup> August, 2016 passed in W.P.S.T. No. 147 of 2009 and the order dated 5<sup>th</sup> February, 2018 passed by the Supreme Court wherein similarly circumstanced employees have been given CAS benefit of 8/10 years as per the Government Order issued.

It is submitted by Mrs. S. Mitra, learned advocate for the applicant that since the applicant is entitled to the benefits as prayed for and a representation dated 28<sup>th</sup> October, 2019 was sent to the Director, ICDS Scheme, Government of West Bengal, - the respondent no. 3,

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appropriate order may be passed directing the respondent to consider the same.

Mr. S. N. Ray, learned advocate for the State respondents submits that the applicants are fence sitters and have approached the Tribunal at a much belated stage after being aware of the judgement passed by the High Court in W.P.S.T. No. 147 of 2009 and the order dated 5<sup>th</sup> February, 2018 passed by the Supreme Court. However, if directed the respondent authorities will consider the same in accordance with law.

Mr. B. Mitra, - the departmental representative for the Principal Accountant General (A & E), West Bengal, the respondent no. 5 adopts the submission of Mr. S. N. Ray.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case and as prayed for, the application is disposed of by directing the Director, ICDS Scheme, Government of West Bengal, - the respondent no. 3 to dispose the representation dated 28<sup>th</sup> October, 2019 by passing a reasoned order to be communicated to the parties within 15 weeks from the date of serving a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing, after verifying the records and after considering the judgement dated 20<sup>th</sup> September, 2007 passed in O.A. No. 1646 of 1998, judgement dated 11<sup>th</sup> August, 2016 passed in W.P.S.T. No. – 147 of 2009 and the order dated 5<sup>th</sup> February, 2018 passed by the Supreme Court.

It is, however, made clear that I have not gone into the merits of

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the matter and all points are kept open to be dealt with by the respondent no. 3.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SOUMITRA PAL)  
CHAIRMAN.

S.M.