

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 418 of 2019.

SHRI DIPTI KALYAN DHALI – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

14
15.3.2023

For the Applicant : Mr. S.K. Mondal,
Advocate.
For the State respondents : Mr. G.P.Banerjee,
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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for removing the disparity in pay of the applicant compared to one junior Indrajit Kar, the private respondent no. 5. Submission of Mr. S.K. Mondal, learned counsel for the applicant is that representation was furnished for pay protection before the respondent department on 27th January, 2014. In response, on 20th July, 2018, the Secretary, Department of Health and Family Welfare informed the Director of Drugs Control that the Finance department has not agreed to the proposal of pay protection of the applicant since “prayer for protection of pay after retirement is not entertainable”.

Submission of Mr. Mondal is that the respondent cannot dispose of the applicant's prayer with such a cryptic and non informative reply by the use of “Not entertainable”.

After hearing the learned counsels, the Tribunal is of the view that such an application furnished before the respondent praying for pay protection with justification and citing the relevant law and rules cannot be dismissed by the

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respondent department in such a short reply and with words like “entertainable” or “not entertainable”. If the prayer is not valid or is not supported by relevant law, the applicant has every right to know under which rule his application for pay protection was not considered. The applicant cannot be communicated the decision of the respondent by words like “entertainable” or “not entertainable” .

Therefore, the Tribunal feels that the impugned order is liable to be quashed and set aside and hence it is quashed and set aside with a direction to the respondent no. 1 - the Secretary of the Department to consider the prayer in accordance with law within twelve weeks and communicate his decision to the applicant in a speaking reasoned order relying his support on specific rule within one weeks thereof. Accordingly, the matter is disposed of.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skg.