

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

Case No. – OA 456 of 2020

Madhabi Das - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No.	For the Applicant	: Mr. M.N. Roy,
and		Mr. G. Halder,
Date of order		Ld. Advocates.
<u>04</u>	For the State Respondent	: Mr. S. Ghosh,
29.07.2021		Ld. Advocate.

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

The instant application has been filed praying for following reliefs :

- a. An order do issue thereby directing the respondent authorities to release and disburse the sum of Rs.13,85,000/- (Rupees thirteen lakh eighty five thousand) as cash equivalent to leave salary for 300 days towards unutilised earned leave due to the credit of the applicant and remaining amount of GPF in favour of the applicant along with statutory banking interest within a stipulated time period.**
- b. An order do issue directing the respondent authorities to pay and liquidate the amount of Leave Encashment and remaining amount of GPF to the applicant in this instant application without any further delay.**
- c. An order do issue directing the respondent authorities to pay statutory banking interest @8% per annum forthwith on the total amount of leave salary and remaining amount of GPF till the date of actual payment is done.**
- d. An order do issue directing the respondents to transmit, produce the records of the case so that conscionable justice can be done to the Applicant.**
- e. Any other order/orders direction/directions as to this learned Tribunal may deem fit and proper in the ends of justice.”**

As per the applicant during her service period, State Chief Information

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Commissioner, West Bengal vide order dated 06.01.2020 (Annexure-D) had imposed a penalty of Rs.25,000/- to be deposited as per Right to Information Rules, 2006 within a period of four weeks from the date of receipt of the order. Thereafter, the applicant retired on superannuation w.e.f. 29.02.2020 vide order dated 28.02.2020 (Annexure-A). However, in the meantime, no such communication of depositing the said amount of penalty of Rs.25,000/- was communicated to her before her retirement but at the time of payment of her retiral benefit, the department had withheld 10% of her GPF as well as leave encashment of 300 days. As per the applicant since no such communication for depositing of such penalty was made to her, therefore, there was no scope to deposit such amount before her retirement. However, the respondent has no authority/provision for withholding of the aforesaid retiral benefit. Being aggrieved with, she has filed the instant application. However, after filing of the instant application, the respondent had paid the aforesaid amount on 14.12.2020 deducting the said amount of Rs.25,000/- from her retiral benefit. It has been further submitted by the counsel for the applicant that even the respondent has no authority to deduct the said amount from the retiral benefit without asking her to deposit the same as per the order dated 06.01.2020 passed by the State Chief Information Commissioner, West Bengal.

The state respondents have not filed any reply till date. However, the counsel for the respondent has submitted that as per the instruction of the State Chief Information Commissioner, West Bengal, the respondent had deducted the aforesaid penalty amount of Rs.25,000/- from her retiral benefit even they have paid the balance amount from the withholding amount of retiral benefit obviously after filing of the instant application. On query, the counsel for the respondent has further submitted that they never asked the applicant to deposit the said amount of Rs.25,000/- during her service period.

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Heard the parties and perused the records. It is noted that the State Chief Information Commissioner, West Bengal vide his order dated 06.01.2020 had ordered inter alia.

“Heard the submission of both the parties and after perusal of the record, it appears that the Public Authority has failed to provide relevant information to the appellant and the SPIO has not able to submit any sufficient cause for not providing the same to the appellant within the statutory time.

Since no reply has been provided to the appellant as on date the Commission imposes a penalty of Rs.25,000/-, which shall be deposited in the particular head of Account as contained in RIT Rules, 2006 within a period of 4 weeks from the receipt of this order.

The Commission also feels that the present case is also appropriate for recommendation of disciplinary action against the SPIO concerned to be initiated by the department concerned.”

From the perusal of the above, it is noted that State Chief Information Commissioner, West Bengal had imposed a penalty of Rs.25,000/- and had ordered to deposit the said amount in the particular head of the Account as per RTI Rules, 2006 within a period of four weeks from the date of receipt of the order. However, admittedly, no communication of the order was made to the applicant asking her to deposit the said amount as required under the RTI Rules, 2006 even no disciplinary action was initiated against the applicant in the meantime. Even the counsel for the respondent is not in a position to show any other provisions under which the respondent can withheld or deduct the said penalty amount from the retiral benefit of the applicant. It is not the case of the respondents that they had asked to deposit the actual amount of Rs.25,000/- but she failed to deposit such amount within the stipulated period of time as per the order dated 06.01.2020. Rather the withheld amount of retiral benefit was paid to the applicant after almost one year from her retirement i.e. after filing of the

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instant application and first hearing date of 11.12.2020.

During the course of the hearing, the counsel for the applicant has fairly submitted that there was an order of depositing the penalty of Rs.25,000/- though such order never communicated to him but the amount had already been deducted the applicant is entitled to get the interest on delayed payment.

In view of the above, I am of the opinion that admittedly the respondent had never asked the applicant to deposit such penalty as per the RTI Rules, 2006 before or after her retirement and paid the withheld portion of the retiral benefit after almost one year from the date of her retirement even they have deducted the said amount of penalty from the retiral benefit without any proper process or provisions of law. Thus, she is entitled to get the interest @8% on delayed payment of retiral benefit. Therefore, the respondents are directed to pay the interest @ 8% on delayed amount of payment of retiral benefit from the date of her entitlement to the date of actual payment within a period of eight weeks from the date of receipt of the order. However, as the respondents have already deducted Rs.25,000/- from retiral benefits, the said amount may be adjusted towards depositing of Rs.25,000/- penalty.

Accordingly, the OA is **disposed of** with the above observations and directions with no order as to cost.

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.

SS/CSM

Mrs. URMITA DATTA (SEN)
MEMBER (J)