

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. –OA 564 of 2022

Shibnath Mukherjee - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mr. M. N. Roy, Advocate.
<u>04</u> 14.09.2022.	For the State Respondents	: Mr. G. P. Banerjee, Advocate.
	For the Principal Accountant General (A&E), West Bengal.	: Mr. B. Mitra, Departmental Representative.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

The instant application has been filed praying for following reliefs:-

(a) An order do issue directing the respondent authorities to re-fix pay and allowances of the applicant being the retired "Inspector" in Subordinate Food & Supplies Service Grade-I (from the date of joining the promotional post of Inspector of Food) in Revised Pay Band-3 Rs. 7100-37600 + Grade Pay of Rs. 3900/- (Pre-Revised Scale No. 10 i.e. Rs. 4500-150-5250-175-7000-200-8800-225-9700) in terms of West Bengal Services (Revision of Pay and Allowances) Rules, 2009 followed by further revision in terms of West Bengal Services (Revision of Pay and Allowances) Rules, 2019 and after re-fixation of pay, the

applicant be paid the arrear pay and allowances, arrear pension and arrear pensionary benefits, revised pension month by month within a stipulated time period.

(b) An order do issue directing the respondent authorities to pay the arrears salaries, arrear pension and pensionary benefits after re-fixation of your applicant's pay with effect on and from the date when he was entitled to along with an interest @ 6% per annum till the actual date of realization of the same.

(c) An order do issue directing the respondent authorities to pay interest on the arrear amount @ 6% P.A. till the actual realization.

(d) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

As per the applicant, he had served the post of Inspector and thereafter retired. It has been submitted that Sri Abhijit Samadder and Sri Bidyut Kumar Misra while working as Inspector under the Food & Supplies Department filed a writ petition being No. 1895 of 1990 praying for Scale No. 10 under West Bengal Services (ROPA) Rules, 1990 and pursuant to the judgement passed by Hon'ble High Court, the state respondents granted Scale No. 10 under ROPA-1990 to those writ petitioner notionally w.e.f. 01.01.1986 and actually from 01.01.1988.

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Thereafter, another group of Inspector filed C.O. No. 20188 (W) of 1994 before the Hon'ble High Court which subsequently transferred to this Tribunal under TA No. 987 of 1996, and was ultimately disposed of by this Tribunal vide order dated 10.07.1997 (Annexure-P/2). Being aggrieved with, the respondent authority filed one WPST No. 287 of 1997, which was dismissed vide order dated 19.11.1997. Again the state respondents preferred an appeal against the order dated 19.11.1997 which was subsequently dismissed by the Hon'ble Apex Court. Subsequently, another group of Inspectors had moved an application being OA-812 of 2013 (West Bengal Subordinate Service Association Vs. State of West Bengal & Ors) which was disposed of vide order dated 13.07.2015 directing the state respondents to award Scale No. 10 under ROPA-1990 to the applicants (Annexure-P/4).

In the meantime, Finance Department issued Memo dated 08.03.2005 and 26.06.2012 and had extended the benefit of Scale No. 10 to the applicant. The counsel for the applicant has referred one order dated 17.08.2022 passed in O.A. No. 296 of 2022.

In view of the above, the applicant has prayed for extension of benefit of aforementioned judgements as well as the orders to the applicants.

During the course of hearing, the counsel for the applicant has submitted that it would suffice their purpose, if the competent authority be directed to consider the case of the applicant in the light of aforementioned judgement and to extend the benefit thereof.

The counsel for the respondent has no objection to consider the claim of the applicants after verifying, whether they are similarly circumstanced or not.

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Further, it has been submitted that since the applicants approached this Tribunal in the year 2022 only, therefore their arrear pay may be guided by the judgement of Hon'ble Apex Court in the case of Union of India Vs. Tarsem Singh reported in (2008) SCC 648.

Heard the parties and perused the records.

In view of the above, the Principal Secretary, Food & Supplies Department, Government of West Bengal is directed to consider the case of the applicant treating this O.A. as a representation and to communicate his decision by way of reasoned and speaking order after verifying whether the applicant is similarly circumstanced or not and to communicate the same within a period of three months from the date of receipt of the order. Accordingly, O.A. is disposed of with no order as to costs.

URMITA DATTA (SEN)
Officiating Chairperson and Member (J)

H.S.