

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member.

**Case No. –OA 634 of 2021**

**Sri Krishnadas Chatterjee. - Versus - The State of West Bengal & Others.**

Serial No. and Date of order	For the Applicant	: None.
<u>18</u> 07.03.2024.	For the State Respondents	: Mr. S. Ghosh, 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. 638-WBAT/2J-15/2016 (Pt. II) dated 23<sup>rd</sup> 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, the case is taken up for consideration sitting singly.

In this application, the prayer is for a direction to the respondents to grant him his pension and other retiral benefit dues. It appears that such benefits were withheld by the State authorities for his involvement in a criminal case. The applicant working as Upper Division Assistant (U.D.A.) under the Directorate of Health Service was arrested and detained in judicial custody for a period exceeding 48 hours on 03.09.2012. Being arrested and detained beyond 48 hours, the Director of Health Services, West Bengal placed him under suspension from the same date. During the period of his suspension he was paid the subsistence allowance, half of his pay drawn prior to the date of his suspension together with other admissible allowances. After the review of the matter, the State respondents decided to lift such suspension period and he was allowed to join his previous post. However, this order revoking the suspension order made the period of suspension to be treated on the basis of outcome of the criminal case. As of today, the criminal case being heard by the competent court of law has not concluded the case. In the meantime, the applicant superannuated on

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31.07.2020. Submitting on behalf of the applicant, Ms. Paul, learned counsel tells that another co-accused in the same case was granted his pension and other retiral benefits as per direction of the Central Administrative Tribunal in the matter of Pradip Kumar Acharya –Vs.- Union of India and Others (Labour & Employment). Ms. Paul further argues that the charges framed against the applicant under I.P.C. does not relate to his responsibility as government employee. Therefore, such terminal benefits cannot be withheld arbitrarily. Thus, withholding of his retiral benefits on the plea that a criminal case is pending is bad in law and moreover such criminal proceeding against the applicant has no relationship with the office where he had worked. The respondent authorities have not alleged any professional misconduct while discharging his public duty in office.

Responding to submission of Ms. Paul, Mr. Ghosh, learned counsel for the State respondents disagree and point out that orders passed by the Central Administrative Tribunal is not relevant in this case, for the reason this applicant is State Government employee. Further, Mr. Ghosh also points of that the charges against the applicant as an accused in the criminal case are of grave in nature. Since the criminal case is still pending and the applicant has not been acquitted yet, the question of granting him full pension with other benefits is not admissible at this stage.

After hearing the submissions of both the sides, the Tribunal relies on the Rule 14 of the West Bengal Services (Death-Cum-Retirement Benefit) Rules, 1971, the Rule has cited is as under :-

*“14. Criminal proceedings—A Government servant who retires from service but against whom criminal proceeding involving moral turpitude are pending in a court of law, shall not be sanctioned any*

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*pension until the termination of the criminal proceedings. An interim allowance not exceeding two-thirds of the pension that granted during the pendency of such proceedings in cases of hardship. If he is convicted on a criminal charge involving moral turpitude he shall not be entitled to any pension; compassionate allowance may be granted subject to the same terms and conditions as laid down in rule 12.”*

The objective of the Rule 14 is clear that a government employee involved in any criminal proceedings will not be entitled for pension and other admissible dues. It is not in dispute that this government employee was arrested and a set of criminal charges framed against him. During his period of suspension, he was paid the subsistence allowance and after review, such suspension was lifted and he was allowed to continue. The criminal case is still sending against him. It is the opinion of the Tribunal that the Rule 14 is clear that until such criminal proceedings are closed, the question of lifting such sanction and granting him his full pension with gratuity and leave salary are not admissible at this stage.

Finding no merit in the prayer of this application, the matter is disposed of without passing any order.

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

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