

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member(A)

Case No. – OA 634 of 2021

Krishnadas Chatterjee - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Ms. P. Paul, Learned Advocate.
<u>14</u> 21.12.2022	For the State Respondent	: Mr. S. Ghosh, Learned Advocate.
	For the Pr. A.G.(A&E), W.B.	: 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 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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

In this application, the prayer is for a direction to the respondents to grant pension and other retiral benefit dues. It appears that the pension and other retiral benefits were withheld by the state authorities due to the applicant's involvement in a criminal case, which is yet to be concluded.

Mr. S. Ghosh, learned counsel appearing on behalf of the State informs that the applicant has been granted the interim allowance which is 2/3 of his pension.

Ms. P. Paul, learned counsel appearing on behalf of the applicant submits her rejoinder to the reply submitted by the State, this may be kept on record. She also refers to a judgment passed in the case of Sk. Jamaluddin Vs. The State of West Bengal & Others in W.P. 5168(W) by the Hon'ble High Court. The relevant portion quoted by Ms. Paul is as under :

“Anandi Prasad Mahato (Supra) is of the view that where a person has been convicted in a criminal

proceedings and such criminal proceedings has no nexus with the service of the petitioner coupled with the fact that there is no allegation during the service of the petitioner and no disciplinary proceedings having been initiated during the tenure of such employee, withholding of terminal benefits is without authority.

In the facts of this case, the criminal proceedings is in question has no nexus with the service of the petitioner. There is no allegation of pecuniary loss caused to the Government by the petitioner during the tenure of his service. The authorities did not initiate any disciplinary proceedings against the petitioner during his entire service tenure.

In Prafulla Chandra Mahato (Supra) the Court had allowed disbursement of terminal benefits on the ground that departmental proceedings had not been initiated and that the criminal proceedings was not on the account related to his service.

In such circumstances, the petition succeeds. The respondents will release the all terminal benefits of the petitioner arising out of his service within a period of 6 weeks from the date of communication of this order to them together with interest at the rate of 8 per cent per annum on arrears for the period from the date when the terminal benefits became due and payable till the date of his actual payment. This rate of interest is allowed taking under consideration that nationalized banks award interest at such rate in respect of fixed deposits”

Ms. Paul, also refers to a judgment of Hon’ble High Court in

W.P. No. 834 of 2013 in the case of Surajit Roy vs. Registrar General, High Court in which at Para 25 an 26.

Mr. Ghosh, referring to the judgments submits that those judgments are not relevant for this matter because the petitioner in those two judgments are not Government employees and thus not guided by DCRB Rules. Mr. Ghosh also refers and submits the relevant orders of similar nature of cases in OA 210 of 2015 in the case of Sukanti Chakraborty Vs. State of West Bengal & Others and WPST No. 232 of 2016 which was upheld by the High Court. In Para 21 of the judgment passed in OA 210 of 2015, the question of release of retiral benefits during pendency of a criminal case has been touched by the following relevant para, which is as under :

“In view of the above, having regard to the factual matrix of the present case and based on the materials on record, we are of the view when there is a criminal case still pending against the applicant, there is no irregularity or illegality on the part of the respondent authorities in withholding the promotion of the applicant to the rank of Deputy Commissioner of Police, Kolkata. Because of pendency of the criminal proceeding against him, the question of releasing his retiral dues, such as, regular pension, gratuity etc. also does not arise at this stage. The reliefs sought for by him in the present application are, therefore, in our opinion, devoid of any merit. Accordingly,

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we dismiss the application.”

Let the matter appear under the heading “Further Hearing”
on 13.04.2023.

SAYEED AHMED BABA
Officiating Chairperson & MEMBER (A)

H.S