

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 643 of 2018

BHAJAHARI MALLICK - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. Chinmoy Pal, Mrs. Archana Dutta, Advocates
<u>14</u> 27.04.2022	For the Respondent	: Mr. Gautam Pathak Banerjee, Advocate

The matter is taken up by the single Bench pursuant to the notification no.949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985.

As prayed for by Mr. Chinmoy Pal, learned advocate for the applicant, leave granted to file supplementary affidavit. Let the supplementary affidavit filed be kept on record. Let a copy of this application be served on Mr. Gautam Pathak Banerjee, learned advocate for the respondents, which is served and accepted.

In this application, Bhajahari Mallick, the applicant, has prayed for certain reliefs, which are as under:-

- “(a) *An order directing the respondent authorities to pay all the pensionary benefits to the applicant herein forthwith as well as to pay all the arrear salaries to the applicant along with interest @ 14% p.a.*
- (b) *To pass such Order or Orders as to your Lordship may deem fit and proper.”*

It appears that the applicant was appointed in the year 1978 and had superannuated on 31st December, 2016. It appears the applicant became mentally

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ill and could not perform his duties from 27th April, 1984 to 26th December, 2016. It appears that the applicant, in 1992, had filed a writ petition before the High Court praying for resumption of duties, which was transferred to the West Bengal Administrative Tribunal by T.A. 01 of 2013. The said application was disposed of on 1st September, 2016 by passing an order, the relevant portion of which is as under:

“There is nothing on record to show that the Applicant was retired from service on attaining age of superannuation or was dismissed / removed from service / compulsorily retired or he was placed under suspension.

In the facts above, we think it proper and wise that the deptt. should take up the representation of the applicant dated 21.12.1991 and 02.03.1992 take a decision over the issue.

Since the deptt. has failed to trace out any paper, whatsoever, regarding the service of the applicant as Group-D staff in S.S.K.M. Hospital, we direct the state respondents particularly the Superintendent, S.S.K.M. Hospital to consider the case of the applicant treating this entire application and annexure thereto as representation of the applicant, and take a decision and pass a reasoned order within a period of three months from the date of communication of this order after giving him an opportunity to be heard and communicate the decision

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to the applicant within two weeks thereafter. The applicant may place the duplicate service book duly attested by the depts. concerned at the time of personal hearing for verification by the authority concerned, if so directed.”

Aggrieved, the applicant preferred a writ petition, being W.P.S.T. 198 of 2016, which was disposed of by an order passed on 8th December, 2016, the relevant portion of which is as under:

“After arguing the petition for some time, the learned Counsel for the Petitioner seeks leave to withdraw the petition and to approach the SSKM Hospital Authorities in terms of the order passed by the West Bengal Administrative Tribunal dated 1st September, 2016.

In the event the Petitioner approaches the Authorities, the Authorities may decide his application as early as possible.”

It appears that pursuant to the orders passed by the High Court a reasoned order was passed on 27th December, 2016, that is, four days prior to the superannuation of the applicant by the Medical Superintendent-cum-Vice Principal, I.P.G.M.E.&R.-S.S.K.M. Hospital, the relevant portion of which is as under:

“I have examined all the relevant Papers/documents and office records.

From 27/04/1984 he remained continuously absent on 31/12/1990 he informed the SSKM authorities that he wants

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to leave the service due to his illness. On 21/12/1991 the petitioner wanted to join his office and informed through an application that he was ill during the period.

In view of the above, it is Ordered that.”

The grievance of the applicant is that though the Medical Superintendent-cum-Vice Principal, I.P.G.M.E.&R.-S.S.K.M. Hospital, had directed the authorities to allow him to join his duties, allegation is he was prevented from joining and leave has not been regularised.

Mr. Pal submits that since the respondent authorities have not taken a decision regarding regularisation of leave and payment of superannuation benefits, appropriate order may be passed directing the respondents for regularisation of leave and for payment of superannuation benefits.

Mr. Gautam Pathak Banerjee, learned advocate for the State respondents submits that if directed, the respondent authorities will take steps in accordance with law.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, the application is disposed of by directing the Director of Health Services, Government of West Bengal, Kolkata, the respondent no.2 (ii) to take a decision and shall pass a reasoned order regarding regularisation of leave of the applicant and consequently for payment of pension and other superannuation benefits, within eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing to the applicant and after perusing the records, including memo dated 10th March, 2018, regarding regularisation of leave and payment of pension issued by the Surgeon Superintendent, S.S.K.M. Hospital, Kolkata, the

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respondent no.2(iii) and other authorities of the said hospital, after verifying the records and after making necessary enquiry. If it is found that the applicant is entitled to regularisation of leave and payment of pension, it shall be granted within eight weeks from the date of completing all formalities by the applicant. In that event, the Director of Health Services, Government of West Bengal, Kolkata, the respondent no.2 (ii) shall intimate the applicant about the formalities to be complied with by him within a week from the date of passing the reasoned order and the benefits shall be granted upon compliance of all formalities.

SCN.

(SOUMITRA PAL)
CHAIRMAN