

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 755 of 2019

Dr. Samir Kr. Pan - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>11</u> 15.06.2022	For the Applicant For the State Respondent	: Mr. M.N. Roy, Advocate. : Mr. G.P. Banerjee, Advocate.
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The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In this application, Dr. Samir Kr. Pan, the applicant has prayed for several reliefs, the relevant portion of which is as under :

“..... (a) An order do issue thereby directing the respondent authorities specially the respondent no. 2 herein to count the past service in terms of Rule 21A of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 for the period from 28.09.1992 to 14.10.2000 of the applicant rendered as “Lecturer” at “Mahatma Gandhi Chitrakoot Gramodaya Viswavidyalaya” Madhya Pradesh so that the applicant be allowed to receive full pension and retiring gratuity after his retirement.

(b) An order do issue thereby modifying the reasoned order dated 20.05.2009 issued vide No. HF/O/ISMH/621/1A-85/2005 Dated 16.09.2011 passed by the Additional Chief Secretary, Government of West Bengal, Department of Health & Family Welfare to the extent of thereby allowing your applicant to the benefit of Rule 21A (ii) of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971.....”

Referring to the order dated 20th May, 2019/16th September, 2019 passed by the Additional Chief Secretary to the Government of West Bengal, being Annexure-F to the application, it is submitted by Mr. M.N. Roy, learned

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advocate appearing on behalf of the applicant that since the applicant while rendering his service as Lecturer at Mahatma Gandhi Chittrakoot Gramodaya Viswavidyalaya had been contributing to the Contributory Provident Fund scheme and as he is ready to refund the amount of Rs.71,474/- along with interest, in view of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971, particularly, Rule 21A (ii) & (iii), thereof, the applicant is entitled to the reliefs as prayed for and the order, being Annexure-F to the application, be set aside and quashed and appropriate order may be passed.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that since it is evident from the order passed by the Additional Chief Secretary to the Government of West Bengal that the applicant could not produce any document to show that the Viswavidyalaya would share the pension liability of the petitioner and he could not produce any document during hearing, no order may be passed.

In order to appreciate the issue, it is relevant to refer to the Rule 21A and the sub-rule which is as under :

“..... 21A. The period service rendered under any Government Undertaking prior to the service under the State Government will be treated as service qualifying for pension subject to the following conditions :

(i)

(ii) Where the undertaking concerned has a contributory Provident Fund Scheme, past service rendered under the undertaking concerned will be counted as service qualifying for pensionary benefits in respect of the period for which the contribution to the Provident Fund was made by the employer, subject to the refund to the State Government the employer's share of contribution towards Provident Fund Scheme together with interest accrued thereon.

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(iii) Where the undertaking of other Government are involved, the principle as mentioned above may be adopted on merit of each case.....”

Since I find that the applicant had contributed to the contributory Provident Fund Scheme in the Mahatma Gandhi Chitrakoot Gramodaya Viswavidyalaya, an undertaking of the Madhya Pradesh Government and also owned, controlled and financially concurred by the said Government where he rendered his past service and as the applicant is willing to refund the amount to the State Government the employer’s share of contribution towards Provident Fund, in the light of Rule 21A (ii) & (iii), I am of the view that the impugned order dated 20th May, 2019/16th September, 2019 passed by the Additional Chief Secretary to the Government of West Bengal, being Annexure-F to the application, cannot be sustained and is, thus, set aside and quashed. The application is allowed.

Accordingly, the Additional Chief Secretary to the Government of West Bengal, Department of Health & Family Welfare now re-designated as Principal Secretary to the Government of West Bengal, Department of Health & Family Welfare, the respondent No. 1 shall dispose of the matter by passing a reasoned order to be communicated to the applicant 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 considering the relevant provisions of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971, particularly Rule 21A (ii) & (iii).

CSM/SS

**(SOUMITRA PAL)
CHAIRMAN**