

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 761 of 2022

Sudha Rani Minj -- VERSUS – The State of West Bengal & Others

Serial No. and Date of order	For the Applicant	: Mrs. S. Das, Advocate.
<u>08</u> 13.12.2024	For the State Respondents	: Mr. G. P. Banerjee, Mr. S. Ghosh, Advocates.
	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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for a direction to the respondent authorities to grant interest @12% p.a. on the gratuity amount to Rs. 2, 69,740/- which was paid to her on 07.10.2021. The applicant in her prayer mentions the delayed period from 02.06.2006 till 06.10.2021. The applicant has also prayed for setting aside the impugned Memo No. 150 dated 06.04.2022. In terms of a direction of this Tribunal in an earlier application, the Executive Engineer informs the applicant details of retiral benefits she is entitled to. Mr. Karan, learned counsel had argued that the applicant was disbursed her family pension on 29.10.2021 but such sanction should have accorded earlier on 01.06.2006. The interest on delayed payment on family pension between 02.06.2006 to 28.10.2021 is being claimed by the applicant. Similarly the gratuity amount which was paid to her on 07.10.2021 should have been paid earlier on 01.06.2006. Thus, the interest on delayed payment on gratuity between 02.06.2006 till 06.10.2021 is being claimed by the applicant.

Having heard the submissions of Mr. Karan and after examination of the records, it appears that the applicant had approached this Tribunal earlier and in terms of a direction of this Tribunal the impugned Memo No.

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150 dated 06.04.2022 was passed regretting her prayer for payment of interest.

Mr. Banerjee, learned counsel who had appeared on behalf of the state respondents had submitted that this application is barred by resjudicata because the applicant had filed an earlier application being No. OA-539 of 2020 before this Tribunal having the same set of prayers. Mr. Banerjee further submits that the issue of delayed payment of retiral benefits to the applicant was well covered in the application filed by the applicant and also the order of this Tribunal.

The relevant lines from the second paragraph of page 2 of the order in OA-539 of 2020 is stated hereunder :-

“That the husband of the applicant during his service career was suspended from 27th August, 2002 to 24th November, 2003 and though it was subsequently withdrawn, since the suspension period is yet to be regularised, delay has been caused in granting the retiral benefits to the applicant. Submission is though certain documents were sent to the Accountant General Office, the same has been returned on 2nd February, 2018 with certain queries. At present, steps have been taken for answering the queries and for preparation of papers for grant of retiral benefits including family pension of the applicant.”

Mr. Karan has responded that the delay was not caused by the applicant. Mr. Karan also submits that due to wrongful suspension of the employee, such delay had occurred without the fault of the employee. The authorities regularised the Extra Ordinary Leave of the deceased employee and only thereafter family pension was sanctioned and gratuity amount was paid to the applicant.

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After examination of the prayer recorded in the order dated 31.03.2021 of OA-539 of 2020, it is clear to this Tribunal that the prayer of the applicant in this application for payment of interest @ 12% per annum for delayed payment of the deceased employee's retiral benefits was already a part of the prayer in the earlier application. The prayer in this application is : "*interest @12% per annum on the gratuity amount to the applicant for the period from 02.06.2006 till 06.10.2021*". Similarly, the second prayer is also for a direction for payment of interest in the following words :- "*directing the respondent authorities to grant and disburse interest @ 12% per annum on the arrear family pension for the delayed period from 02.06.2006 to 28.10.2021*".

In terms of direction of this Tribunal in OA-539 of 2020, the applicant received the retiral benefits of the deceased employee on the gratuity amount of Rs. 2,69,740/- on 07.10.2021 and the family pension of Rs. 11,17,834/- on 29.10.2021. From the comparative prayers in both the applications, it is sufficiently clear to this Tribunal that the applicant had agitated earlier before this Tribunal for her claim of payment of interest. The Tribunal in the earlier application had heard the matter including the issue for delayed payment of interest and disposed of the same by passing a direction. Repeating the same relief in this application for payment of interest, this application appears to be restricted by res judicata. Hence, the Tribunal is not inclined to pass any directions for such relief as prayed for by the applicant on the ground that such prayer was already heard by this Tribunal in OA-539 of 2020.

Therefore, this application not being maintainable from the point of res judicata is dismissed without passing any orders.

S.M.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)