

ORDER SHEET

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 79 of 2017

Dilip Kumar Chowdhury - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

07
29.02.2024

For the Applicant : Mr. A.K. Pal,
Learned Advocate.

For the State Respondents : Ms. R. Sarkar,
Mr. S. Deb Roy,
Departmental Representatives.

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.

Mr. A.K. Pal files a copy of judgement passed by the Hon'ble Supreme Court arising out of Special Leave Petition (Civil) No. 1427 of 2009 and submits that para 13 and 14 of this judgement are the relevant paragraphs in this context.

Ms. Sarkar after examining the same judgement points out that the issue in the judgement was whether, in absence of any provision in the pension Rules, the state government can withhold a part of pension, gratuity during the pendency of departmental/criminal proceedings. Ms. Sarkar submits that in this case, the applicant being involved in a criminal case, his full pension was withheld as per the law as stipulated under Rule 14 of W.B. (D.C.R.B) Rules, 1971. Therefore, this judgement is not relevant in this matter.

Having heard the submissions of the learned counsels and after examination of the documents, it is clear to the Tribunal that full pension with gratuity and leave encashment were withheld by the respondent authorities on the ground that the applicant was involved in a criminal case and such case has not yet been concluded.

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THE STATE OF WEST BENGAL & OTHERS.

Rule 14 of W.B. (D.C.R.B) Rules, 1971 which is relied by the respondent authority in withholding the pension is clear that such pension cannot be sanctioned to an employee involved in a criminal case. The relevant rule is as under :-

“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 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 fact that the applicant was involved in a criminal case and such case is yet to be concluded by the Trial Court, the full pension as well gratuity, leave encashment cannot be sanctioned to the applicant till the disposal of the case in his favour.

The Tribunal finds the decision of the respondent in withholding the full pension, gratuity and leave encashment was as per the Rule. Accordingly, the application is disposed of without passing any order.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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