

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 917 of 2021.

SRI DEB KUMAR ADAK - VERSUS- THE STATE OF WEST BENGAL AND OTHERS.

Serial No. and
Date of order

7
13.6.2023

For the Applicant : Mr. S.N. Ray,
Advocate.

For the State Respondents : Ms. R. Sarkar,
Mrs. A. Bhattacharyya,
Departmental representatives,
L & L.R. Department.

For the Principal Accountant General (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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

In this application, Deb Kumar Adak, the applicant has prayed for disbursement of arrear pension along with interest and for payment of interest for delayed payment of gratuity after condoning the shortfall of service of four years five months and twenty days for getting pension.

Heard learned advocates for the parties.

I find that the issue is covered by the judgement delivered on 18th January, 2022 passed in WP.ST 91 of 2019 (Sudhansu Karmakar and others – vs- State of West Bengal and others) wherein, interalia, it has been held as under :-

“.....Admittedly, the power to relax the period for the purpose of qualifying service is provided in DCRB Rules, 1971 but with an outer cap of six months. The authorities cannot act in contravention to the statutory provisions nor the Writ Court

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should issue a Mandamus commanding the authorities to act in clear violation of the statutory provisions. Once the power of relaxation is brindled with an outer cap, the authorities are denuded of power to extend such relaxation, who do not come within the purview thereof..”.

In view of the law laid down by the Hon’ble High Court and since the short fall is beyond six months, such delay cannot be condoned by the respondent authorities. Therefore, no order is passed on the application.

The application is disposed of.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Sk.