

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Mrs. Urmita Datta (Sen), Member (J) &
Hon'ble Sayeed Ahmed Baba, Member (A)**

Case No. - OA 954 of 2013

Mrinmoy Ghosh **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mrs. S. Mitra,
Learned Advocate.
For the State Respondent : Mr. D. Kole,
Learned Advocate.

28
30.09.2021

The instant application has been filed challenging the impugned order dated 16.05.2013 whereby the case of the applicant was rejected inter alia :

“The above application has been carefully examined and found that the instant prayer does not fulfil the financial condition laid down in terms of Labour Department’s Notification No. EMP-30 dated 02/04/2008 read with EMP-114 dated 14/08/2008.

So the undersigned regrets to inform him that the prayer has been rejected by the competent authority.”

As per the applicant, the impugned order is a non-speaking one as it does not disclose the specific reasons for rejection of his case. However, during the pendency of the instant application, the respondent has filed one calculation sheet which according to the applicant should not be taken care of as this calculation sheet does not disclose whether it has been made by the Three-men Enquiry Committee or not. Further, even after going through the said calculation sheet, it would be evident that the respondent has taken into account the interest on the retiral benefit of the employee concerned which is not admissible as per the Hon'ble High Court's order dated 22.01.2008 in the case of Tapan Kumar Barman v. State of West Bengal reported in 2009 1 CHN 23. Therefore, the applicant has prayed for quashing of the impugned order dated 16.05.2013.

The counsel for the respondent has submitted that as per the calculation sheet, the income of the applicant is more than 90% of the family income. However, he is not in a position to clarify whether such calculation was made by the Three-men Enquiry Committee or not.

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Heard both the parties and perused the records. From the perusal of the impugned order, it is noted that the impugned order is a non-speaking one as it does not disclose the concrete reasons for rejection of the applicant's claim. Further, from the perusal of the calculation sheet (though the counsel for the respondent cannot clarify whether the said calculation was made by the proper Three-men Enquiry Committee or not), it is noted that the respondents have taken into account the interest on the retiral benefit.

In view of the above, the impugned order is quashed and set aside. The matter is further remanded back to the Secretary, Department of Health and Family Welfare, Government of West Bengal for reconsideration of the case of the applicant after conducting the appropriate enquiry with regard to the claim of the applicant and to take decision and communicate the same by way of a reasoned and speaking order within a period of eight weeks from the date of receipt of the order.

Accordingly, the OA is **disposed of** with no order as to cost.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

SAYEED AHMED BABA
MEMBER (A)

Mrs. URMITA DATTA (SEN)
MEMBER (J)

CSM/SS