

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-875 of 2021

Paresh Chandra Bera **VERSUS – The State of West Bengal & Ors.**

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
<u>01</u> 23.12.2021	For the State Respondent	:	Mrs. S. Agarwal, Learned Advocate.
	For the Pr. A.G.W.B.		Mr. B. Mitra.

Affidavit of service has been filed. Let it be kept with the record.

The instant application has been filed basically challenging the second show cause notice issued by the respondents in pursuance to the liberty granted by this Tribunal in earlier OA-428 of 2018 dated 30.08.2018.

As per the counsel for the applicant, the applicant approached before this Tribunal challenging the final order dated 16.04.2018, with regard to the disciplinary proceedings dated 09.02.2015, on the ground that the final order was passed without supplying the second show cause notice as well as advice of the P.S.C. In the earlier order dated 30.08.2018, this Tribunal had quashed and setting aside the impugned final order dated 16.04.2018 with a liberty to the respondents to take action as per rule as well as law.

In the meantime, the applicant retired from service on 31.05.2020, however, no second show cause notice was served upon him during that period even he has not received any retirement benefit except G.P.F and Group Insurance. In the meantime, the respondents has issued one second show cause notice dated 08.10.2021 proposing reduction of three stages lowering the pay matrix applicable at the time of retirement.

As per the counsel for the applicant, the said show cause notice is not acceptable as per law, as in the meantime the applicant has already been retired in the year 2020. Even the respondents have not taken any step with regard to the disciplinary proceedings as per D.C.R.B. Rules. Therefore, the counsel for the applicant has prayed for interim protection with a direction

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for provisional pension.

The counsel for the respondent has prayed for time to take instruction and file a short reply with regard to interim protection and has submitted that the application is premature as the applicant did not file reply to the second show cause notice.

The departmental representative for the Pr. A.G.W.B, however, has drawn our attention to the reminder letter dated 22.12.2021, whereby they had asked for certain documents with regard to provisional pension of the applicant to the Joint Director of Agriculture, Bankura Range.

The counsel for the applicant has submitted that since the second show cause notice is void in the eye of law, therefore, there is no question of reply to the second show cause notice, thus the application is not premature.

In view of the above, the counsel for the respondent is directed to file a short reply with regard to interim relief as well as sanction of provisional pension by the next date. Let the matter be listed for admission hearing on **31.01.2022.**

Since the 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)

URMITA DATTA (SEN)
MEMBER (J)

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