

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-92 of 2025

Alok Kumar Sarkar. -- VERSUS – The State of West Bengal & Others.

Serial No. and Date of order <u>04</u> 07.08.2025	For the Applicant For the State Respondents	: Mr. Goutam Pathak Banerjee, Mrs. Subarna Das, Learned counsels. : Mr. Shaon Bhattacharya, Learned counsel.
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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 filed this application with a prayer for directing the respondent authorities to release the entire retirement benefits including pension, gratuity, leave encashment and arrears accumulated w.e.f. 01.11.2021 along with interest.

The applicant appointed to the post of Additional District Inspector of Schools (SE) (Secondary Education), Birbhum in the West Bengal Education Service. After rendering service for several years, the applicant retired from service on 31.10.2021. The sanction of pensionary benefit has been delayed and the retirement benefit has not been released. On 13.05.2022, the respondent no. 5 released Provident Fund amount to the applicant. The pensionary benefit was rejected on the ground that there is no Vigilance Clearance Certificate was issued. Subsequently, the Joint Secretary, on 26.09.2022 requested the respondent no. 4 to process the provisional pension of the applicant but the Vigilance Clearance Certificate is still being awaited. The respondent authority withheld the provisional pension of the applicant till date except for the period from 01.11.2021 to 31.10.2023. Hence, finding no other alternative the applicant filed this application for the relief as prayed for.

It appears from the record and other documents that one Apurba

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Prakash Kar made an allegation against the applicant and as such an order was passed by the Joint Secretary to the Government of West Bengal to the Commissioner of School Education, West Bengal with a request to enquire the matter and furnish a report along with the views of the department within a fortnight. On the basis of such allegation no enquiry reports has come out or issue any Vigilance Clearance Certificate in favour of the applicant. No vigilance case has been initiated. It is settled principles of law that the retirement benefits cannot be withheld on the ground of any false, motivated, concocted and suspicious allegations made after cessation of employer and employee relationship which has got no basis.

The Hon'ble Apex Court in innumerable judgements is held that no disciplinary proceeding can be initiated after the delinquent employee or officer retires from service on attaining the age of superannuation the latest judgement in this regard is State Bank of India and Others-Vs.-Navin Kumar Sinha.

In the above judgement the Hon'ble Apex Court held that :-

“No disciplinary action can be taken post retirement or after extended service period of delinquent employee” in the said order, the Hon'ble Apex Court held that a subsisting disciplinary proceeding i.e. one initiated before superannuation of the delinquent officer may be continued post superannuation by creating a legal fiction of continuance of service of the delinquent officer for the purpose of conclusion of the disciplinary proceeding. But no disciplinary proceeding can be initiated after the delinquent employee or officer retires from service on attaining the age of superannuation or after the extended period of service.

In this case, it is crystal clear that the respondent authority was not initiated any disciplinary proceeding before superannuation of the applicant.

That being the position, I see no merit in the decision made by the respondent against the applicant. After going through the record, I find no

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merit in the decision taken by the respondents and the applicant is succeeded in this case. The respondent authority has not rightly passed the impugned order and therefore, there is a merit in the case of the applicant and the applicant is entitled to get the relief as prayed for. The respondents are directed to release all the service dues of the appellant expeditiously and at any rate not later than six months from the date of the order.

This application is disposed of.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.