

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. – RA 9 of 2023 [OA 528 of 2022]**

**Madhusudan Debnath -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Mr. G. Halder,  
Ld. Advocate.

For the State Respondents : Mr. R.K. Mondal,  
Ld. Advocate.

02  
08.07.2024

For the Pr. AG (A&E),  
WB : Mr. B. Mitra,  
Ld. Depttl. Rep.

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

This application has been filed praying for review/recall of the order dated 10.05.2023 passed in OA 528 of 2022.

Mr. Halder, learned counsel submits that though the employee was convicted in a criminal case but the interim allowance paid to him was an entitled benefit. Therefore, the order of this Tribunal directing the respondent authorities to recover the interim allowance already paid to the applicant is not covered by the rules. Attention has been drawn to the Rule 14 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971. The relevant portion is as under :

*“Rule 14 - 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 (may) 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 allowances may be granted subject the same terms and conditions as laid down in rule 12.”*

Mr. Mitra, Ld. Departmental Representative informs that by the above order of this Tribunal, the Treasury Officer has stopped release of the interim allowance which was being paid to the applicant.

After hearing the submissions of the learned counsels and on close examination of the rules, the Tribunal is satisfied that the rule cited in the

Form No.

Case No. RA-9 of 2023 [OA 528 of 2022]

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Vs.

The State of West Bengal & Ors.

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previous order does not cover any part relating to recovery of the interim allowance paid to the convicted employee. In this case, due to conviction in a criminal case, no pension has been sanctioned to the applicant but interim allowance was being paid to the applicant till conviction in the criminal case. Such interim allowances have ceased to be paid to him once the employee was convicted in the criminal case. The question is whether the interim allowance paid earlier to the applicant before his conviction in the criminal case is required to be recovered from him or not? After examination of the rules, in particular, West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971, the Tribunal does not find any provision by which such recovery of the interim allowance has to be done by the employer. The Rule 14 covers only pension in such cases. From the above examination of the rules, the Tribunal is satisfied that the interim allowance paid to the convicted employee is not required to be recovered from him.

In view of these findings, the Tribunal modifies the last paragraph of the order dated 10.05.2023 in OA 528 of 2022 as follows :

*“After hearing the submissions of the learned counsels, it is clear that as per the Rule cited the applicant as the convicted employee, convicted in a criminal case, is not eligible for pension. However, the interim allowance paid to him before such conviction cannot be recovered from the employee.”*

Accordingly, this application is **disposed of**.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

CSM/SS