

ORDER SHEET
West Bengal Administrative Tribunal

Present.-

The Hon'ble Justice Ranjit Kumar Bag

&

The Hon'ble Dr. Subesh Kumar Das

Case No. **OA - 1026 of 2019**

Sankar Kachari

Versus

The State of West Bengal & Others

Serial No. and date of order 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary. 3
<p style="text-align: center;">02 <u>18/02/2020</u></p>	<p>For the Applicant : Mr. I. Roy, Learned Advocate.</p> <p>For the State Respondents : Mr. R.A. Chowdhury, Learned Advocate.</p> <p>For the A.G., W.B. : N O N E.</p> <p style="text-align: center;">Affidavit of Service filed on behalf of the applicant is kept on record.</p> <p style="text-align: center;">The applicant has prayed for direction upon the respondents for release of all retirement benefits including pension and the amount of General Provident Fund and other consequential reliefs.</p> <p style="text-align: center;">The contention of the applicant is that he retired from service on December 31, 2014 from the establishment of the Respondent No. 3, the Commandant, Eastern Frontier Rifles, Salua, Paschim Midnapore. It appears from the materials on record that a Departmental Enquiry was started against the applicant by issuance of chargesheet against him on October 21, 2014. Learned Counsel for the applicant submits that the Departmental Enquiry continued after retirement of the applicant from service and report</p>	

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	<p>has already been submitted by the Enquiry Officer on conclusion of the Departmental Enquiry. He further submits that the applicant has given his reply to the second show-cause notice, but final order has not yet been passed by the Disciplinary Authority. On December 11, 2019, the applicant submitted an application before the Respondent No. 4 praying for grant of provisional pension and releasing the amount of General Provident Fund and other retirement benefits, but the said representation has not yet been considered by the Respondent No. 4.</p> <p>Mr. Chowdhury, Learned Counsel for the state respondents submits that a criminal case is pending against the applicant u/s 403/406 of the Indian Penal Code (G.R. No. 4432/2019 arising out of K.G.P. (L) Case No. 659/2014) before the Court of Learned Judicial Magistrate, 4th Court, Paschim Midnapore. He further submits that the Departmental Enquiry is started against the applicant on the self same charge on which a criminal case is still pending for adjudication before the competent Court of Law.</p> <p>Having heard Learned Counsel representing</p>	

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	<p>both parties and on consideration of the facts of the present case, we find that the Departmental Enquiry started against the applicant has been concluded but the final order has not been passed by the disciplinary authority till date. We also find that the criminal case which was started against the applicant is still pending for adjudication before the competent Court of Law. Admittedly, no interim allowance is given to the applicant in terms of the provisions of Rule 14 of West Bengal Services (Death-Cum-Retirement Benefits) Rules, 1971 (in short, the D.C.R.B. Rules, 1971) after retirement of the applicant from service due to pendency of the criminal proceeding against him. Nor do we find that the provisional pension is granted in favour of the applicant in terms of the provisions of Rule 10 (2) of the D.C.R.B. Rules, 1971 though the disciplinary proceeding is still pending against the applicant after his retirement from service.</p> <p>Learned Counsel for the applicant submits that the applicant has not yet received any amount of General Provident Fund after retirement from service. Nothing is on record to indicate that the applicant submitted application</p>	

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	<p>in the prescribed format for release of the final payment of General Provident Fund before the Respondent No. 4. Accordingly, we are of the view that the applicant should submit application in the prescribed format for release of the final payment of General Provident Fund within a period of 04 (four) weeks from this date and the Respondent No. 4 should take appropriate action for release of the final payment of General Provident Fund in favour of the applicant within specific period of time.</p> <p>In view of our above observations, we would like to hold that the applicant is entitled to get provisional pension in terms of provisions of Rule 10 (2) of the D.C.R.B. Rules, 1971 during the period from the date of his retirement from service till the conclusion of the disciplinary proceeding pending against him. As a result, we direct the Respondent No. 3, the Commandant, Eastern Frontier Rifles, Salua, Paschim Midnapore to take necessary steps for release of provisional pension in favour of the applicant in terms of the provisions of Rule 10 (2) of the D.C.R.B. Rules, 1971 during the period from the date of his retirement from service till the date of conclusion</p>	

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Csm	<p>of the disciplinary proceeding pending against him within a period of 08 (eight) weeks from the date of communication of the order.</p> <p>The applicant is directed to submit application in the prescribed format for release of the final payment of General Provident Fund before the Respondent No. 4 within a period of 04 (four) weeks from this date. If such application is submitted by the applicant within the prescribed period of time, the Respondent No. 3, the Commandant, Eastern Frontier Rifles, Salua, Paschim Midnapore will take necessary steps for release of the final payment of General Provident Fund in favour of the applicant within a period of 08 (eight) weeks from the date of receiving the application in prescribed format from the applicant. With the above direction, the original application is disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	