

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble JUSTICE RANJIT KUMAR BAG**

**& The Hon'ble DR. SUBESH KUMAR DAS**

**Case No – OA 574 OF 2016**

*Subhas Chandra Som* vs **The State of West Bengal & Ors.**

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;">16</p> <hr/> <p>14.01.2020</p>	<p><i>For the Applicant : Mr. B.C. Manna, Learned Advocate.</i></p> <p><i>For the State Respondents : Mr. S. Ghosh, Learned Advocate.</i></p> <p style="text-align: center;"><i>The applicant has prayed direction upon the respondents for fixation of pay in terms of order dated September 27, 2001 passed by the Assistant Director of Health Services (Administration), West Bengal after setting aside the reasoned order issued by the Director of Health Services, West Bengal on November 19, 2015, by which the relief sought for by the applicant was turned done.</i></p> <p style="text-align: center;"><i>The applicant joined in the Government service as Social Welfare Officer in the year 1967. He got the benefit of scale of pay of Rs.150-250/- as Grade-III Group-C non-medical technical personnel. He got promotion to the post of Grade-II of Group-C non-medical technical personnel on April 1, 1972 in the scale of pay of Rs.300-600/-. The initial pay scale which was applicable on the date of joining of the applicant in service was in terms of the West Bengal Services (Revision</i></p>	

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*of Pay & Allowances) Rules, 1960 (in short, ROPA Rules,1960). On promotion, the applicant got his pay fixed in terms of ROPA Rules, 1970.*

*The applicant moved this Tribunal by filing OA-755/2001 which was disposed of by this Tribunal by giving direction to the state respondents to consider the representation of the applicant in connection with benefit of re-option under ROPA Rules, 1970. The representation submitted by the applicant was duly considered by the Assistant Director of Health Services (Admn.), West Bengal after giving opportunity of hearing to the applicant and by passing an order on September 27, 2001. By the said order dated September 27, 2001, the Assistant Director of Health Services (Admn.), West Bengal gave opportunity to the applicant for submitting re-option under ROPA Rules, 1970, which was given to the similarly circumstanced officers of the Directorate. Even after submission of re-option in terms of ROPA Rules, 1970, the applicant was aggrieved for not getting his pay enhanced by way of re-fixation and as such he approached this Tribunal for the second time by filing OA-591 of 2014, which was disposed of on July 30, 2015. The Director of Health Services, West Bengal was directed to consider and dispose of the representation submitted by the applicant afresh on January 14, 2014 by passing order on*

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*July 30, 2015 in OA-591 of 2014. By virtue of the said direction of the Tribunal in OA-591 of 2014, the Director of Health Services, West Bengal passed the reasoned order on November 19, 2015, by which the representation of the applicant was rejected.*

*Mr. Manna, Learned Counsel for the applicant, contends that fixation of pay of the applicant was not done after submission of re-option in terms of ROPA Rules, 1970. He further contends that the respondents have threatened to recover excess salary paid to the applicant as soon as re-fixation will be done on the basis of exercise of re-option by the applicant. According to Mr. Manna, recovery can never be done from the applicant after fixation of pay as the pay and allowances to be applicable to the applicant are being enjoyed by other Social Welfare Officers of the entire State of West Bengal.*

*Mr. Ghosh, Learned Counsel representing the state respondents, submits that re-option exercised by the applicant under ROPA Rules, 1970 was not approved by the Finance Department, Government of West Bengal and thereby fixation of pay of the applicant was not done de novo as the same would ultimately entail recovery of salary from the applicant and other Social Welfare Officers who exercised re-option under ROPA Rules,*

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*1970. He also submits that Director of Health Services, West Bengal has assigned adequate reasons for rejecting the representation of the applicant in the order dated November 19, 2015.*

*Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that re-option under ROPA Rules, 1970 exercised by the applicant is still in force in terms of the order of the Tribunal. However, the re-option was permitted to be exercised under ROPA Rules, 1970 on fulfilment of some conditions which include recovery of excess salary after re-fixation in terms of exercise of re-option, if any amount is found to be overdrawn by the applicant. The reasoned order dated November 19, 2015 has clearly pointed out that the benefit of fixation of pay which was given to the Social Welfare Officers, who are similarly circumstanced with the applicant, had to face consequences of refund due to erroneous fixation of pay in terms of exercise of re-option under ROPA Rules, 1970.*

*In view of our above findings, we do not find any illegality or irrationality in the impugned order dated November 19, 2015 issued by the Director of Health Services, West Bengal. The logical inference of our above observation is that we do not find any merit in the present*

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*application which is liable to be dismissed.*

*As a result, the original application is **dismissed**.*

*The urgent Xerox certified copy of the order, if applied for, be supplied to either of the parties on priority basis on fulfilment of all legal formalities.*

**( S.K.DAS )**  
**Member ( A )**

**( R.K.BAG )**  
**Member ( J )**

*H.S*