

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Mrs. Urmita Datta (Sen), Member(J)****The Hon'ble Mr. P. Ramesh Kumar, Member(A)****Case No – OA- 602 OF 2018.****Aloke Kumar Bose. Vs 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>04</p> <hr/> <p>18/02/2019</p>	<p>For the Applicant : Mr. B.P. Roy, Advocate.</p> <p>For the State Respondents: Mr. M.N. Roy, Advocate.</p> <p>For the State Respondents: Mr. G.P. Banerjee, No.4 Advocate.</p> <p><i>The instant application has been filed praying for following relief:</i></p> <p>a) <i>To pass an order cancelling the order of suspension of the applicant.</i></p> <p>b) <i>To direct the respondent/authorities concerned to release salary of the applicant from the month of September, 2016 to the month of April, 2017 after deducting subsistence allowance, immediately.</i></p> <p>c) <i>To direct the respondent authorities concerned to release pension, C.V.P. Gratuity in favour of the applicant immediately.</i></p> <p>d) <i>To direct the respondents/authorities concerned to return/hand over SSS Scheme in Collectorate Post Office, Midnapore (West) A/C No.2700653074 and Life Insurance of India Policy No.136805876 (Pradhan Mantri Yozna) in favour of the applicant immediately.</i></p>	

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	<p><i>e) To direct the respondents/authorities concerned to cancel the order of suspension, release of salary after deducting subsistence allowance since the month of September, 2016 till the month of April,2017.</i></p> <p><i>f) To direct respondents/authorities to submit service book of the applicant before A.G.Bengal (Finance department) of Government of West Bengal immediately.</i></p> <p><i>g) To pass an order cancelling the order of suspension of the applicant dated September 2, 2016 immediately.</i></p> <p><i>h) An order awarding costs in favour of the applicant to be paid by the respondents.”</i></p> <p><i>As per the applicant, after being voluntary retired from the Armed Forces, the applicant was appointed as Lower Division Clerk in the office of Superintendent of Police, Midnapore February 1985. However, during his service in the month of 1st September 2016 one FIR was lodged and the applicant was arrested on June 3, 2017. His residential house was searched and some ornaments and documents were seized by the ACB. He was placed under suspension on 02.09.2016. While under suspension, he retired on 30.04.2017.</i></p>	

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	<p><i>Thereafter, he has filed the instant application for release of pension and gratuity etc. He was suspended by order dated 23.06.19 under Rule 73 of WBCCA Rules. However, the counsel for the respondents have stated that Superintendent of Police (Admn.) Paschim Medinipur respondent No.3 has filed one report whereby he stated that the Anti Corruption Branch, West Bengal has seized the original service book of the applicant on 21.06.2017 in connection with ACB PS Case No.9 of 2017 dated 2.6.17 u/s.13(1)(e) read with 13(2) of Prevention of Corruption Act 1988 under proper seizure list and service book. Therefore, the respondents are not in a position to file any proper reply at present.. However, as per the record, following admissible retiral dues have been already disbursed in favour of the applicant as per serviced Rules.</i></p> <p><i>a) Total of Rs.22,63,595/- released on 29.04.2017 as Final Payment of GPF vide Police Office Bill No.150/16(4)17.</i></p> <p><i>b) Total of Rs.03,18,801/- released on 24.06.2018 as Leave Salary vide T.V.No.24 dated 24.06.2018.</i></p> <p><i>c) Total of Rs.37,784/- released on 20.06.2018 as G.I. money vide T.V.No.58 dated 20.04.2018.</i></p> <p><i>As the applicant has been implicated in a</i></p>	

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	<p><i>criminal case with serious charges, which is still pending, therefore, the applicant is not entitled for any regular pension as well as salary and gratuity for the suspension period. However, if the applicant would file any application for ad-interim allowance as per the Rules then the authority may consider as per rules. They have also made it clear that though it is the discretionary power of the authority but the applicant has to first approach the authority which he did not do so. Therefore, the respondent has prayed for rejection of the application. Let the report be kept on record. Mr. G.P. Banerjee appearing for the respondent also supports the contention raised by the respondent Nos.1 to 3.</i></p> <p><i>Heard the parties and perused the records as well as report submitted by the respondent authorities. The counsel for the applicant has also admitted the fact that the applicant so far has not filed any application before them.</i></p> <p><i>In view of the above facts and circumstances as the respondents have already disbursed the admissible retiral dues to the applicant and the applicant had retired admittedly under suspension. Therefore, in our considered view, there is no question of granting of salary for the said period unless any decision about the said period be taken</i></p>	

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GM	<p><i>by the disciplinary authority. In view of the above, we do not find any merit to entertain the application. Accordingly, the application is dismissed being devoid of merit. However, the applicant may approach the appropriate authority for interim allowance, if so advised as per Rules.</i></p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	