

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble JUSTICE RANJIT KUMAR BAG
& The Hon'ble DR. SUBESH KUMAR DAS**

Case No – OA 105 OF 2020

Himadri Sinha Ray 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;">05 <hr/>08.10.2020</p>	<p><i>For the Applicant : Mr. T. Basu, Learned Advocate.</i></p> <p><i>For the State Respondents : None</i></p> <p><i>For A.G.(A&E), W.B. : Mr. B. Mitra, Departmental Representative.</i></p> <p style="text-align: center;"><i>Affidavit of service filed on behalf of the applicant today is kept on record.</i></p> <p style="text-align: center;"><i>The applicant has prayed for direction upon the respondents to release retirement benefits including pension.</i></p> <p style="text-align: center;"><i>The applicant joined in the Government service as Veterinary Surgeon under the Department of Animal Resources Development, Government of West Bengal on November 25, 1979. He got promotion to the post of Assistant Director, Animal Resources Development (Veterinary Research and Investigation), Disease Investigation cum Clinical Laboratory, Karseng, Darjeeling on December 08, 2009. On July 18, 2011, the applicant submitted application for voluntary retirement</i></p>	

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from service, but his application was not considered by the respondents till the date of his superannuation from service on March 31, 2014. Since the application for voluntary retirement of the applicant was not considered, he continued his service up to November 05, 2012. He was compelled to make himself absent from office from November 06, 2012 till the date of his retirement on March 31, 2014 due to ill health. Without getting any pension and other retirement benefits after retirement from service, the applicant had to approach this Tribunal by filing OA No. 1319 of 2016. On February 23, 2017, this Tribunal disposed of OA 1319 of 2016 by directing the Principal Secretary to the Government of West Bengal, Department of Animal Resources Development to take a decision regarding regularisation of absence of the applicant from service and communicate the same to him within specific period of time. The contention of the applicant is that the respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Animal Resources Development did not take any decision for regularisation of absence of the applicant from service during the period from November 06, 2012 to March 31, 2014 for non-availability of his service book. The various correspondences made between the Directorate of Animal Resources and Animal Health and the Department of

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Animal Resources Development in connection with grievance of the applicant indicate that the service book of the applicant forwarded by the Directorate to the Department was lost and the Department gave instruction to the Directorate to reconstruct the service book for the purpose of regularisation of absence of the applicant from service. In the above circumstances, the retirement benefit including pension was not decided and disbursed in favour of the applicant.

None appears on behalf of the State respondents in spite of service of notice as reflected from the affidavit of service filed by the applicant. Having heard Learned Counsel for the applicant and the Departmental Representative of the respondent A.G. West Bengal, we find that the applicant is deprived of his retirement benefits like pension, gratuity, leave encashment etc. for not taking any decision for regularisation of the absence of the applicant from service during the period from November 6, 2012 to March 31, 2014. The loss of service book of the applicant can be attributed to the Department to which the service book was forwarded by the Directorate for regularisation of absence of the applicant from service. The Department should take urgent necessary steps for reconstruction of the service book with

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the help of the Directorate without further delay, so that the respondent No. 1 can regularise the absence of the applicant from service. Since the prayer of voluntary retirement of the applicant was pending till the date of his retirement from service and since the applicant was compelled to be absent from duty during the period from November 6, 2012 to March 31, 2014 due to ill health, it is the bounden duty of the respondent No. 1 to regularise the absence of the applicant from duty by grant of leave of any kind to the credit of the applicant or by grant of Extra Ordinary Leave without pay in terms of Rule 175 read with Rule 34B of WBSR Pt. I within specific period of time after reconstruction of the service of the applicant.

In view of our above findings, we direct respondent No. 1, Principal Secretary to the Government of West Bengal, Department of Animal Resources Development to regularise the absence of the applicant from service during the period from November 6, 2012 to March 31, 2014 after getting his service book reconstructed with the help of the Directorate of Animal Resources and Animal Health, within a period of eight weeks from the date of communication of the order. The respondent No. 1 is further directed to grant pension, gratuity, leave encashment and other retiral benefits, if any, of the

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<p><i>Rajib</i></p>	<p><i>applicant within a period of four weeks from the date of issuing order of regularisation of absence of the applicant from service and take necessary follow-up action within a period of two weeks thereafter.</i></p> <p><i>Let a plain copy of the order be supplied to the applicant and the Departmental Representative of the respondent A.G., West Bengal.</i></p> <p>(S.K.DAS) Member (A)</p> <p>(R.K.BAG) Member (J)</p>	
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