

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No – **OA 114 of 2020**

Swapan Kumar Bhattacharjee 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
03 14.10.2020	<p>For the Applicant : Mr. S.K. Mitra, Learned Advocate.</p> <p>For the Respondent : None.</p> <p>For the A.G., W.B. : Mr. B. Mitra, Depttl. Representative.</p> <p>Affidavit of Service filed on behalf of the applicant is kept on record. None appears on behalf of the state respondents inspite of service of notice as reflected from the affidavit of service.</p> <p>The applicant has prayed for direction upon the respondents for grant of pension and other retiral benefits after treating the period of service of the applicant from June 04, 2013 to March 12, 2015 as regular service.</p> <p>It appears from the materials on record that the applicant was absorbed in government service as Extension Officer on February 20, 1996. He got promotion to the post of Joint B.D.O. on September 10, 2010. The applicant was suspended from service for detention in custody exceeding 48 hours due to his involvement in a criminal case. He was suspended on December 15, 2013 w.e.f. June 04, 2013, but he was reinstated in service on revocation of the order of suspension on March 04, 2015. Ultimately, he retired from service on October 31, 2018. The grievance of the applicant is that he has not been paid his retiral</p>	

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benefits including Pension, Gratuity etc. due to pendency of the criminal case against him.

Learned Counsel representing the applicant submits that the criminal case is pending against the applicant before the Hon'ble High Court for final hearing. He further submits that the amount of G.P.F. has also not been paid to the applicant though the amount of money deposited in the G.P.F. is the personal property of the applicant, who is entitled to receive the same inspite of pendency of the criminal case against him.

Having heard Learned Counsel for the applicant and the Departmental Representative of the respondent A.G., West Bengal and on consideration of the materials on record, we are of the view that the applicant is entitled to get interim allowance in terms of Rule 14 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 during the pendency of the criminal proceeding against him. The applicant is also entitled to get the balance amount of G.P.F. inspite of pendency of the criminal proceeding against him. However, the applicant is not entitled to get Gratuity, Pension, Leave Encashment etc. unless and until the fate of the criminal case is decided by the Court of Law. The pension sanctioning authority will decide the entitlement of the applicant to get Pension, Gratuity and Leave Encashment after considering the final verdict of the criminal case.

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	<p style="text-align: center;">Under the above circumstances, we are giving liberty to the applicant to file application in the prescribed format before the respondent no. 4, Block Development Officer, Moynaguri, Jalpaiguri for release of the balance amount of G.P.F. within a period of 06 (six) weeks from this date. We are also giving liberty to the applicant to file an application for grant of interim allowance in terms of Rule 14 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 before the respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Panchayat & Rural Development within a period of 06 (six) weeks from this date. If such applications are filed by the applicant within the stipulated period of time, the respondent no. 4 will take all necessary steps for disbursement of the amount of G.P.F. in favour of the applicant within a period of 06 (six) weeks from the date of submission of the application by the applicant, if the said amount of G.P.F. has not been disbursed in favour of the applicant in the meantime. If the applicant files application for interim allowance within the stipulated period of time, the respondent no. 1 will take necessary steps for grant of interim allowance in favour of the applicant in terms of Rule 14 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 within a period of 06 (six) weeks from the date of submission of the application by the applicant and the payment of such interim allowance will continue till the date of disposal of the criminal</p>	
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proceeding pending against the applicant before the competent Court of Law. The respondent No. 1 is also directed to decide the entitlement of the applicant to receive pension, gratuity, leave encashment etc. after the final verdict of the criminal case pending against the applicant. With the above direction, the original application stands **disposed of**.

Let a **Plain Copy** of the order be supplied to the applicant forthwith.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Csm