

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

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

Case No. **OA-129 of 2019**

Md. Nurul Islam

Versus

The State of West Bengal & Ors.

Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
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02 28/03/2019	<p><b>For the Applicant</b> : Mr. N. Majhi, Ld. Advocate.</p> <p><b>For the State Respondent</b> : Mr. M.N. Roy, Ld. Advocate.</p> <p>The applicant has prayed for direction upon the respondents for payment of arrears of salary during the period from September 26, 1999 to December 17, 2003 and for disbursement of retiral benefit including Provident Fund and Gratuity of the applicant.</p> <p>Learned Counsel for the applicant has not pressed for prayer 'a' of the original application by which the applicant prayed for arrears of salary during the period from September 26, 1999 to December 17, 2003, and as such the said prayer stands rejected.</p> <p>The only issue for consideration of the Tribunal is whether the applicant is entitled to get retiral benefit including Provident Fund and Gratuity. The applicant retired from service as Assistant Sub-Inspector of Police from the establishment of the respondent no. 4. Admittedly, one criminal case being Narkeldanga Police Station case No. 56 u/s 120B/409 IPC was started against the applicant and the said</p>	

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	<p>criminal case is still pending for adjudication before the competent Court of Law. The departmental proceeding was also started against the applicant on the allegation of entering into criminal conspiracy for commission of breach of trust in respect of liquid cash of Rs. 3,18,000/- while the applicant was in charge of Malkhana of Narkeldanga Police Station. The applicant was dismissed from service by the disciplinary authority on conclusion of departmental enquiry. The said order of dismissal was set aside by this Tribunal by Judgement and order dated September 10, 2003 passed in OA-8273 of 1999. However, the Tribunal directed the disciplinary authority to impose lesser punishment on the applicant within specific period of time from the date of communication of the order of the Tribunal. Accordingly, the applicant was reinstated in service by treating the period of absence from duty from September 26, 1999 to December 17, 2003 as break-in service and his pay was refixed at minimum of the pay-scale after reinstatement in service. Again, the applicant challenged the said modified order of punishment before the Tribunal by filing OA-1583 of 2004 which was disposed of on December 18, 2009 by modification of punishment of “break-in service” as punishment of “dies non”, but the remaining portion</p>	

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	<p>of punishment remained intact.</p> <p>With the above factual matrix, Learned Counsel for the applicant contends that the applicant retired from service on February 28, 2018 and he is entitled to get the balance amount of General Provident Fund, Gratuity and Interim Allowance. On the other hand, Learned Counsel representing the state respondents submits that the state respondents are not in a position to grant interim allowance to the applicant as the pension sanctioning authority will not be able to make entries of interim allowance in the Service Book which has already been seized in connection with the criminal case pending for adjudication before the competent Court of Law.</p> <p>In view of the pendency of the criminal case against the applicant till date, the applicant is not entitled to get the amount of Gratuity which can be decided only after final adjudication of the criminal case by the competent Court of Law. There is nothing on record to indicate that the applicant submitted application in the prescribed format for disbursement of the amount of General Provident Fund before the authority concerned and as such the state respondents cannot be held liable for not disbursing</p>	

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	<p>the amount of General Provident Fund to the applicant. Since the criminal case is still pending against the applicant, the applicant is not entitled to get pension until final adjudication of the criminal case as laid down in Rule 14 of the West Bengal Services (Death-cum-retirement benefit) Rules, 1971 (in short, the DCRB Rules of 1971). However, the applicant is entitled to get interim allowance not exceeding two third of the pension that would be admissible, but for the pendency of the criminal proceeding, may be granted during the pendency of the criminal case only if the applicant is facing hardship after retirement in terms of Rule 14 of the D.C.R.B. Rules of 1971.</p> <p>In view of our above findings, the applicant is directed to submit application in the prescribed format and to furnish all particulars for disbursement of the amount of G.P.F. before the respondent no. 4 within a period of 04 (four) weeks from this date. The applicant is further directed to submit appropriate application praying for interim allowance during pendency of the criminal proceeding against him before the respondent no. 4 within a period of 04 (four) weeks from this date. The respondent no. 4, the Deputy Commissioner of Police, Port Division, Kolkata</p>	

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Csm	<p>is directed to disburse the amount of G.P.F. in favour of the applicant within a period of 08 (eight) weeks from the date of submission of the application in the prescribed format by the applicant. The respondent no. 4, Deputy Commissioner of Police, Port Division, Kolkata is further directed to grant interim allowance to the applicant during pendency of the criminal case against him in terms of Rule 14 of the D.C.R.B. Rules of 1971 within a period of 12 (twelve) weeks from the date of submission of the application by the applicant.</p> <p>With the above direction, the original application stands <b>disposed of</b>.</p> <p>Let a <b>Plain Copy</b> of the order be supplied to both parties.</p> <p style="text-align: center;"><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p style="text-align: center;"><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	