

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman.
& Hon'ble Dr. Subesh Kumar Das, Administrative Member.

CASE No. OA 131 of 2018.

DR. RABINDRA NATH MAJUMDAR-Vs- THE STATE OF W.B. & 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>5 19.2.2019.</p>	<p>For the Applicant : Mr. A. Nayak, Advocate.</p> <p>For the State Respondent : Mrs. S. Agarwal, Advocate.</p> <p>As prayed for by Mr. Amitabha Nayak, learned advocate for the applicant, leave is granted to amend the cause title with regard to respondent no. 1 and to add the Additional Chief Secretary, Finance Department, Government of West Bengal as a party respondent by amending the cause title.</p> <p>In this application the applicant has prayed for a direction upon the respondents to release pensionary benefits including pension from 30th November, 1982 and to grant gratuity and provident fund along with interest at the rate of 10 per cent per annum for the delay in paying the same.</p> <p>It appears that the applicant was appointed in the West Bengal Educational Services on 29th November, 1958. Thereafter the applicant was confirmed on 29th November, 1960. The applicant was granted study leave from 24th April, 1965 to 23rd April, 1968. After returning from England in the year 1969 he joined as</p>	

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	<p>Assistant Professor in English in Hooghly Mohosin College. He was posted at Maulana Azad College from 1969 to 1971. Thereafter in Presidency College from 1971 to 1975, in Maulana Azad College from 1976 to 1978 and from 1978 to 1980 in Goenka College of Commerce and Business Administration. The applicant has stated that he was granted extra ordinary leave for two years without any financial benefit in terms of the Government order dated 19th September, 1980. According to the applicant he wrote letters to the authority to extend his extra-ordinary leave which evoked no response. Thereafter, on 1st October, 1987 he sought voluntary retirement with a request to disburse pensionary benefits including gratuity, provident fund for his twenty-four year of service in the Education Department, which according to him went unheeded. Thereafter, on 8th December, 1987, as evident from the application, he received a copy of the letter from the respondent authorities to the Principal, Goenka College of Commerce and Business Administration about his prayer for voluntary retirement. A reminder was issued on 5th January, 1989 to the Secretary, Education Department, Government of West</p>	

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	<p>Bengal regarding his prayer for voluntary retirement. According to him several letters were written but without any response. Ultimately, as stated in the petition, the Administration by Notification dated 10th November, 2008 allowed the applicant to retire voluntarily with effect from 30th November, 1982 in terms of rule 75(aaa) of WBSR Part-I, as evident from page 26 of the application.</p> <p>It has been stated that though he has been allowed to retire from 30th November, 1982 till date pension, gratuity and provident fund are yet to be granted.</p> <p>Mr. A. Nayak learned advocate for the applicant relying on the memorandum dated 20th August, 1981, particularly the first six paragraphs thereof, and referring to the Notification dated 10th November, 2008 submits that as the applicant is yet to get pension, gratuity and provident fund and since his prayer for voluntary retirement has been accepted, the respondent authority may be directed to grant pension and other superannuation benefits with effect from 30th November, 1982.</p>	

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	<p>Mrs. S. Agarwal, learned advocate appearing on behalf of the respondent authorities, relying on the reply and the supplementary reply and referring to the memorandum dated 20th August, 1981, particularly paragraph 13, submits that as the benefit of voluntary retirement under the scheme will not be admissible to holder of certain services and posts as enumerated in rule 59 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 and since the applicant admittedly belongs to West Bengal Educational Services, as evident from rule 59 Clause VI which stipulates that the members therein are entitled to pension after completing qualifying service of not less than twenty-five years, the applicant is not entitled to pension. According to the respondent, the total qualifying years of service of the applicant is twenty-two years, eight months and nineteen days.</p> <p>In reply Mr. Nayak submits that the respondents in their reply and supplementary reply have not spelt out the position of the applicant from 1982 to 2008.</p> <p>Having heard the learned advocates for the</p>	

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	<p>parties and considering the facts and circumstances of the case, since the matter relates to grant of pensionary benefits , the application is disposed of by granting liberty to the applicant to apply for release of provident fund before the Principal, Goenka College of Commerce and Business Administration, Kolkata – the respondent no. 3 in the prescribed format, if not already done, within four weeks from the date of presentation of a copy of the certified copy of this order. If such application is filed , the amount in the provident fund account will be disbursed, if not already disbursed, within sixteen weeks.</p> <p>So far as payment of pension and gratuity are concerned, the Principal Secretary, Department of Higher Education, Government of West Bengal, – the respondent no. 1 shall take a decision and shall pass a reasoned order to be communicated to the applicant, within sixteen weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing to the applicant, to an authorised representative of the Director of Public Instruction, Government of West Bengal and to the Principal, Goenka College of Commerce and Business Administration, Kolkata or his</p>	

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Skg.	<p>representative and after obtaining a report regarding the matter from the Additional Chief Secretary, Finance, Government of West Bengal, the added respondent no. 4. It is made clear that along with the certified copy of this order, the applicant will serve copies of the original application, the reply and supplementary reply and the rejoinder before the respondent nos. 1 and 4.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	

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