

**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 291 of 2019.

SRI SWAPAN KUMAR ROY – Vs- THE STATE OF WEST BENGAL AND 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>11 10.2.2020.</p>	<p>For the Applicant : Mr. K. Banerjee, Mr. Md. Idrish, Advocates.</p> <p>For the State Respondent : Mr. S.N. Ray, Advocate.</p> <p>In this application, Swapan Kumar Roy, the applicant, has prayed for several reliefs, the relevant portion of which is as under :-</p> <p><i>“.....a. An order in the nature of mandatory be passed directing the respondents their men, agents, subordinates and each one of them to pay interest at least @ 12% per annum to the applicant on the withheld service benefits of the applicant from 25.07.2014 till the actual payment of the benefits i.e. – (1) on 04.08.2017 when Arrear Salary was paid; (2)On 20.9.2017 when Gratuity and Commuted Value of Pension was paid;(3) 22.09.2017 when Leave Salary was paid; (4) on 07.11.2017 when Arrear Pension was paid,, (5) on 09.11.2017 when G.P.F. was paid; within 15 days from the date of the order;</i></p> <p><i>b. an order to pay withheld amount on account of Group Insurance of the applicant along with interest at least @ 12% per annum to be computed from</i></p>	

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	<p><i>the date when it became due, i.e, on the date of retirement of the applicant on 30.09.2015 within a period of 15 days from the date of the order;....”.</i></p> <p>The matter was admitted. Thereafter report was filed on behalf of the State respondents. Rejoinder has been filed on behalf of the applicant.</p> <p>Mr. K. Banerjee, learned advocate for the applicant submits since the order dated 25<sup>th</sup> July, 2014 dismissing the applicant was set aside by the appellate authority, as evident from the order dated 27<sup>th</sup> January, 2016 being annexure “A” to the application, and as it is evident in page 3 of the status report prepared by the State authorities, that the pay arrear, Gratuity, commuted value of pension, cash equivalent of leave salary and GPF final withdrawal were disbursed after considerable delay and that too after filing of representations, interest on delayed payment of the amount, as prayed for, may be granted. Submission is the respondents cannot take the plea for non payment of Group Insurance for the reasons as mentioned in paragraph 5 of the said report, as it has been categorically stated in the rejoinder of the application</p>	

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	<p>that group insurance was deducted from the pay of the applicant regularly as would appear from the pay slips issued and the respondents never informed that there was no entry in the official record.</p> <p>Mr. S.N. Ray, learned advocate for the State respondent submits that the applicant is not entitled to the interest in view of the notification as mentioned in paragraph 5 of the Status report. Moreover, office does not have the records regarding the deduction of Group Insurance from the applicant.</p> <p>In reply, it is submitted on behalf of the applicant that as the order dismissing the applicant has been set aside, he is entitled to get interest on the delayed payment of the amount as mentioned in paragraph 4 of the report. Moreover, as Group Insurance was deducted regularly, the respondents are to pay the same.</p> <p>Having heard Mr. Banerjee and Mr. Ray and considering the facts and circumstances of the case, since we find that order of dismissal dated 25<sup>th</sup> July, 2014 admittedly was set aside by the appellate authority and the Director of Personnel and Ex-officio Chief Engineer,</p>	

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	<p>Government of West Bengal, Water Resources Development Directorate, Kolkata by order dated 23<sup>rd</sup> November, 2016, appearing at page 43 of the application, had directed that the period from 25<sup>th</sup> July, 2014 till 30<sup>th</sup> September, 2015, that the is date of retirement of superannuation of the applicant, would be treated as 'spent on duty' and <i>".....Accordingly, Sri Roy would be entitled to annual increment with effect from 01.07.2015 and the Superintending Engineer (A-I), Kolkata (A-I) Circle is also directed to record it in the Service Book of Sri Roy and return it to this end for obtaining necessary concurrence from the Finance Department regarding regularisation of service and Pay &amp; allowances of the incumbent...."</i> and as the amount under the head Pay Arrears, Retiring Gratuity, Commuted value of pension, cash equivalent of Leave Salary and GPF final withdrawal was released belatedly, as evident from the paragraph 4 of the report, the applicant is entitled to interest on the delayed payment of the amount mentioned in the report. Hence, the Superintending Engineer (A-I), Kolkata (A-I) Circle, – the respondent no. 3, shall grant interest at the rate of eight per cent per annum to the applicant with</p>	

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	<p>regard to pay arrear, retiring gratuity, commuted value of pension, cash equivalent of leave salary and GPF final withdrawal to be calculated from the date payable till the date of actual payment within fifteen weeks from the date of presentation of a copy of this order. While granting interest, the said respondent no. 3 shall give a breakup of the interest granted under each head.</p> <p>So far the payment of Group Insurance is concerned, since it is submitted by Mr. Ray, learned advocate for the State respondents, that the department does not have the records and since it has been stated by Mr. Banerjee relying on the rejoinder that the applicant was never informed that there was no deduction with regard to Group Insurance, rather deduction made is evident from the pay slips issued, the applicant is directed to file an application with regard to payment of Group Insurance before the said respondent no.3 annexing copies of the pay slips and/or any document in connection therewith, within four weeks from the date of obtaining a copy of this order. If such application for payment of Group Insurance is filed, the said respondent no. 3 shall dispose of the same by passing a reasoned</p>	

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Skg.	<p>order to be communicated to the applicant within fifteen weeks, after giving an opportunity of hearing and after being satisfied with the documents, including copies of pay slips.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	