

**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 428 of 2014.

DR. DEBASISH HALDER -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 style="text-align: center;">22</p> <hr/> <p>26.3.2019.</p>	<p>For the Applicant : Mr. M. Karim, Advocate.</p> <p>For the State Respondent : Mr. A.L. Basu, Advocate.</p> <p>For the Pr. Accountant General (A &amp; E) W.B. : Mr. B. Mitra, Departmental Representative.</p> <p>In this application the applicant has prayed for the following reliefs :-</p> <p style="padding-left: 40px;"><i>“a) An order commanding the respondents to pay interest @ 12% per annum to the applicant on the amount of retiral benefits e.g. gratuity, leavepay, leave encashment, arrear pension from the date of retirement till actual payment to the petitioner.</i></p> <p style="padding-left: 40px;"><i>b) Any other or further order or orders as Your Lordships may deem fit and payment”.</i></p> <p>It appears that the applicant had joined the West Bengal Health Services on 15<sup>th</sup> January, 1985. On 14<sup>th</sup> February, 2005 he applied for voluntary retirement intending to retire with effect from 15<sup>th</sup> May, 2005. Since the application was kept pending, the applicant had filed an application being Original application No. 519 of 2006</p>	

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	<p>(Dr. D. Halder –Vs- The State of West Bengal &amp; Others) praying for acceptance of the application for voluntary retirement. The same was disposed of on 22<sup>nd</sup> July, 2009 by passing an order, the relevant portion of which is as under :-</p> <p style="text-align: center;"><i>“...Ld. Advocate representing the petitioner is present.</i></p> <p style="text-align: center;"><i>Affidavit of service is filed. Let it be kept with the record.</i></p> <p style="text-align: center;"><i>Despite service none appears to oppose this application on behalf of the State Respondent.</i></p> <p style="text-align: center;"><i>Today itself one application is being filed regarding certain subsequent events. Let it be kept with the record.</i></p> <p style="text-align: center;"><i>Having heard the Ld. Advocate representing the petitioner and upon perusal of the materials available so far in the record, we dispose of the application with the following direction:-</i></p> <p style="text-align: center;"><i>The Respondent authority specially the Respondent No. 2 is directed to treat this application of the petitioner together with all its annexures including the application noting subsequent events as representation</i></p>	

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	<p><i>and dispose it of by passing a reasoned order in accordance with law within a period of three months from the date of communication of this order. After the decision is taken the same shall be communicated to the petitioner within a period of two weeks next.</i></p> <p><i>Petitioner is directed to supply the copy of the application together all its annexures and the plain copy of this order to the aforesaid respondent for due compliance.</i></p> <p><i>The matter is thus disposed of..."</i></p> <p>Pursuant to the said order, the Director of Health Services, West Bengal had passed a reasoned order on 9<sup>th</sup> January, 2010, the relevant portion of which is as under :-</p> <p><i>" ...In view of the above facts and observations, I, the Director of Health Services, W.B. am of the opinion that the applicant, Dr. Debasish Haldar, may be allowed to retire voluntarily w.e.f. 08.02.2007 observing all the formalities, and his service may be regularized accordingly. The applicant is directed to submit a fresh application praying for Volunatry Retirement w.e.f. 08.02.2007 along with the prayer for</i></p>	

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	<p><i>regularisation of the period of absence from 15.05.2005 to 07.02.2007 through proper channel. After receiving his application, the concerned authorities will issue necessary orders as early as possible.</i></p> <p><i>Thus the representation is disposed of.....”.</i></p> <p>It appears from paragraph 6(h) of the Original Application that the retirement benefits such as Gratuity, leave encashment, leave period salary and arrear pension were disbursed on various dates ranging from 10<sup>th</sup> October, 2012 to 24<sup>th</sup> April, 2013.</p> <p>Mr. Karim, learned advocate appearing on behalf of the applicant relying on the statements made in the original application and referring to the reply and the rejoinder submits that as in the reasoned order, it has been mentioned that the prayer for voluntary retirement has been accepted with effect from 8<sup>th</sup> February, 2007, interest, as prayed for, may be granted on the delayed payment on the superannuation benefits with effect from 8<sup>th</sup> February, 2007.</p> <p>Mr. A.L. Basu, learned advocate appearing on behalf of the State respondents relying on the reply submits that since the applicant submitted an undated</p>	

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	<p>application for pension along with three specimen signatures and passport size photographs and other relevant documents on 4<sup>th</sup> December, 2012 and the Accountant General, West Bengal had raised certain queries on 31<sup>st</sup> January, 2013, which were replied to by the State authorities promptly , no order may be passed granting interest.</p> <p>Mr. B. Mitra, the departmental representative adopts the submission made by Mr. Basu.</p> <p>In reply, it is submitted by Mr. Karim that as pursuant to the directions by the Tribunal, the Director by his reasoned order had allowed the applicant to retire voluntarily with effect from 8<sup>th</sup> February, 2007, interest may be granted from that date.</p> <p>Heard Mr. Karim, Mr. Basu and Mr. Mitra.</p> <p>Admittedly the applicant had submitted his application for voluntary retirement in the year 2005. Since it was not considered, he had filed an Original application being No. 519 of 2006 which was disposed of in the year 2009. Pursuant thereto, the reasoned order was passed on 9<sup>th</sup> March, 2010 by the Director of Health Services allowing the applicant to retire voluntarily with</p>	

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	<p>effect from 8<sup>th</sup> February, 2007. It is also not disputed that the retirement benefits have been disbursed as mentioned in paragraph 6.(h) of the application. The question is whether the applicant is entitled to get interest on the delayed payment of superannuation benefits as stated in the petition. We find from the Original Application, reply and rejoinder that it is not disputed that the applicant had submitted his application for pension along with relevant documents on 4<sup>th</sup> December, 2012. It is to be noted that once the application for voluntary retirement is accepted one has to comply with certain formalities and to submit pension papers along with relevant documents, which the applicant had submitted on 4<sup>th</sup> December, 2012. Since the applicant applied for pension on 4<sup>th</sup> December, 2012, in the facts and circumstances of the case, the application is disposed of by directing the Director of Health Services, Government of West Bengal, respondent no. 2 (ii) to grant interest at the rate of eight percent per annum on the amount disbursed as mentioned in page 6 of the original application on gratuity, leave encashment and arrear pension to be calculated from 5<sup>th</sup> December, 2012</p>	

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Skg.	<p>till the date of such payments within ten weeks from the date of presentation of a copy of the certified copy of this order. It is made clear that the applicant is not entitled to interest on a sum of Rs. 1,74,728/- being leave period salary as it was disbursed on 10<sup>th</sup> October, 2012, that is prior to his submission of his pension papers on 4<sup>th</sup> December, 2012.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	

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