

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)

& The Hon'ble Dr. Subesh Kumar Das, Member (A)

Case No – OA 429 OF 2020

Amit Das 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
<p style="text-align: center;">02</p> <hr/> <p style="text-align: center;"><i>23.12.2020</i></p>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the State Respondents : Mrs. S. Agarwal, Learned Advocate.</p> <p>For A.G.(A&E), W.B. : Mr. B. Mitra, Departmental Representative.</p> <p style="text-align: center;">The instant application has been filed praying for following direction :</p> <p style="text-align: center;">(a) An order do issue directing the respondent authorities to conclude the Disciplinary Proceeding so initiated against the applicant vide Charge Sheet No. 28-MA/N/Estt(MED)/2M-13/2018 dated Kolkata, the 04th February, 2020 by passing the final order in accordance with law within a stipulated time period as the applicant has already retired from service on attaining the age on 30.04.2020.</p> <p style="text-align: center;">(b) An order do issue directing the respondent authorities to pay arrear and current provisional pension in favour of the applicant till the disposal of the departmental proceeding in accordance with law.</p>	

ORDER SHEET

Amit Das

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No. OA 429 OF 2020

(c) An order do issue directing the respondent authorities to pay and disburse the legitimate dues i.e. GIS and Leave Encashment in favour of the applicant within a stipulated time period.

(d) A further order do issue directing the respondent authorities to transmit records pertaining to the instant case so that conscionably justice can be done.

(e) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.

As per the applicant, he was Charge Sheeted on 04.02.2020 and retired from service on 30.04.2020. He had filed his reply on 20.02.2020 but till date the disciplinary proceeding has not been concluded and due to this, he has not been granted provisional pension or any other retirement benefits.

During the course of the hearing, he has referred the judgment reported in (2015) 16 SCC 415, Pream Nath Bali Vs. Registrar, High Court of Delhi and another wherein the Hon'ble Supreme Court has held inter alia :

“ 28 Keeping these factors in mind, we are of

ORDER SHEET

Amit Das

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No. OA 429 OF 2020

the considered opinion that every employer (whether State or private) must make sincere endeavour to conclude the departmental enquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time-frame then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

The counsel for the applicant has submitted that he should be granted the benefit of the aforesaid judgment and the respondent should be directed to conclude the disciplinary proceeding within the stipulated period of time.

The counsel for the applicant has further submitted that he has already submitted application for provisional pension on 25.08.2020 and also 09.09.2020 (Annexure C). Therefore, he has submitted that it would suffice his

ORDER SHEET

Amit Das

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No. OA 429 OF 2020

purpose and the authority will be directed to conclude the disciplinary proceeding within the stipulated period of time and provide provisional pension and other retirement benefit as per Rules.

The Counsel for the respondents has submitted that the statement of defence of the applicant was received on 11.03.2020 and due to lock down for Covid-19 pandemic situation, the said proceeding could not be held. On 11.11.2020, the Enquiry Authority was appointed. Therefore, some time is needed to conclude the disciplinary proceeding.

Heard both the parties and perused the record as well as aforesaid judgment.

In view of the above, the respondent no. 2 is directed to conclude the disciplinary proceeding within a period of 6 (six) months from the date of receipt of the order. The applicant is directed to co-operate with the respondent authority to complete the said proceeding. In the meantime, the department is directed to provide the provisional pension and other retirement benefit as per Rules within a period of 1 (one) month.

Accordingly, the original application is disposed of. No order as to cost.

(S.K.DAS)
Member (A)

URMITA DATTA (SEN)
Member (J)

H.S

ORDER SHEET

Amit Das

Form No.

.....

Vs.

The State of West Bengal & Ors.

Case No. OA 429 OF 2020

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