

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 43 of 2020**

Sri Debasish Dhar 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
05 <hr/> 08.10.2020	<p>For the Applicant : Mr. M.N. Roy, Mr. S. Ghosh, Learned Advocates.</p> <p>For the Respondent : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for grant of financial benefit of service including annual increment and promotion after setting aside order dated December 16, 2009 issued by the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal.</p> <p>The applicant joined Government Service as Sub-Registrar in the Directorate of Registration and Stamp Revenue, Department of Finance, Government of West Bengal in the year 1995. He got promotion to the post of Additional District Sub-Registrar on March 04, 1999. He was placed under suspension w.e.f. April 15, 2003 in terms of the provisions of Rule 7 (3) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 due to his detention in custody in connection with a criminal case, which is still pending for adjudication before the competent Court of Law. Subsequently, he was reinstated in service from December 09, 2005 and posted as Additional District Sub-Registrar, Jangipur in the district of Murshidabad</p>	

ORDER SHEET

Sri Debasish Dhar

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 43 of 2020**

subject to the condition that treatment of the period under suspension and drawal of pay and allowances during the same period of suspension and consequential benefits, if any, will be decided after conclusion of the trial of the criminal case pending before the competent Court of Law.

The applicant got his pay fixed at ₹ 22,330/- in Pay Band 4 (₹ 15,600 - ₹ 42,000/-) with Grade Pay of ₹ 5400/- in terms of ROPA Rules, 2009 w.e.f. 01/01/2006 by virtue of Memorandum dated March 26, 2019 issued by the Directorate of Registration and Stamp Revenue. The Departmental Proceeding against the applicant was closed by the State Vigilance Commission by Memorandum dated March 03, 2014. The grievance of the applicant is that he was not granted annual increment after his reinstatement in service on December 09, 2005. The applicant moved this Tribunal by filing OA No. 561 of 2019. On September 05, 2019 this Tribunal disposed of OA-561 of 2019 by directing the Inspector General of Registration and Commissioner of Stamp Revenue, West Bengal to consider the representation of the applicant dated May 27, 2019 in accordance with the provisions of the rules by which the applicant is governed by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow-up action within a period of 08 (eight) weeks thereafter. Accordingly, on December 16, 2019, the respondent no. 3, Inspector General of Registration and Commissioner of Stamp

ORDER SHEET

Sri Debasish Dhar

Form No.

Vs.

The State of West Bengal & Ors.

Case No. OA 43 of 2020

Revenue passed reasoned order, whereby he narrated the background of the grievances of the applicant and pleaded his inability to consider the representation of the applicant dated May 27, 2019 as he is not the Cadre Controlling Authority of the applicant. The said reasoned order of the respondent no. 3 is under challenge in the present original application.

Having heard Learned Counsel representing the respective parties and on consideration of the materials on record, we find that the applicant was reinstated in service on December 09, 2005, but he was not granted annual increment and other financial benefits like Career Advancement Scheme or promotion, inspite of performance of duty as Additional District Sub-Registrar from December 09, 2005 till date, except fixation of his pay in terms of ROPA Rules, 2009 w.e.f. 01/01/2006. The representation submitted by the applicant for grant of annual increment and promotion was considered by the Directorate of Registration and Stamp Revenue and the case of the applicant was forwarded to the Finance Department, Revenue Branch for sympathetic consideration, but the same has not yet been considered by the Department. The admitted position is that the criminal case in connection with which the applicant was suspended from service and subsequently reinstated in service is still pending for adjudication before the competent Court of Law. The further admitted position is that the Departmental Proceeding initiated against the applicant is closed in terms of

ORDER SHEET

Sri Debasish Dhar

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 43 of 2020**

the Memorandum dated March 03, 2014 issued by the State Vigilance Commission, West Bengal.

With the above factual matrix, the issue for consideration of the Tribunal is whether applicant should be granted annual increment and other benefits of service like promotion and Career Advancement Scheme in terms of the order of reinstatement of the applicant in service issued on December 09, 2005 by the Joint Secretary to the Government of West Bengal, Department of Finance. On perusal of the said order dated December 09, 2005, we find that the applicant is reinstated in service subject to the condition that treatment of the period of his suspension and drawal of pay and allowances during the said period of suspension and consequential benefits, if any, will be decided after conclusion of the trial of the criminal case. Since the criminal case is still pending for adjudication, the pay and allowances to be paid to the applicant during the period of suspension cannot be decided at this stage in terms of order dated December 09, 2005. The consequential benefits which the applicant is not entitled to get is the benefit which may ultimately accrue in favour of the applicant after conclusion of the criminal trial. However, the benefit of service to which the applicant is entitled after his reinstatement by virtue of order dated December 09, 2005 cannot be denied to the applicant for indefinite period from the year 2005 till date. Accordingly, we are of the view that the applicant is entitled to get annual increment

ORDER SHEET

Sri Debasish Dhar

Form No.

Vs.

The State of West Bengal & Ors.

Case No. **OA 43 of 2020**

and other benefits of service like CAS benefit and promotion to which he is entitled in terms of the Rules and G.Os by which the applicant is governed after his reinstatement in service in terms of order dated December 09, 2005.

In view of our above findings, we direct the respondent no. 2, Additional Chief Secretary to the Government of West Bengal, Department of Finance (Revenue) to decide the financial benefits to which the applicant is entitled for the service rendered by him after his reinstatement by virtue of order dated December 09, 2005 on verification of office records by passing a reasoned order within a period of 08 (eight) weeks from the date of communication of the order and take necessary follow-up action within a period of 04 (four) weeks thereafter. With the above direction, the original application stands **disposed of**.

Let a **Plain Copy** of the order be supplied to the applicant and the state respondents forthwith.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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