

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No.

Versus

Order of the Tribunal
with signature

Office action with date
and dated signature of
parties when necessary.

Serial No. and
date of order

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01/08/2018

Case No. OA-435 of 2016: Prasun Chakravarty & Another Vs. the State of West Bengal & Others.

For the Applicants : Mr. D. Pal,
Learned Advocate.

For the State Respondents : Mr. S. Ghosh,
Learned Advocate.

For the A.G., W.B. : Mr. B. Mitra,
Departmental Representative

Case No. OA-436 of 2016: Prasun Kanti Bhaumik Vs. the State of West Bengal & Others.

For the Applicant : Mr. D. Pal,
Learned Advocate.

For the State Respondents : Mr. S. Ghosh,
Learned Advocate.

For the A.G., W.B. : Mr. B. Mitra,
Departmental Representative

The common question involved in both the original applications is whether the applicants will get pro-rata pension for rendering more than 10 years of service as employees of Government of West Bengal immediately after acceptance of their resignation for taking up new assignment in Central Autonomous Bodies.

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	<p><i>The applicant of original application no.436 of 2016 joined as Sub-Inspector of West Bengal Police on January 10, 2000 and resigned from the said service with effect from March 13, 2010 for taking up new assignment as Security Officer in UCO Bank. The applicant no. 1 of original application no. 435 of 2016 joined as Sub-Inspector of West Bengal Police on January 10, 2000 and resigned from the said service with effect from January 27, 2012 for joining his new assignment as Security Officer of United Bank of India. Similarly, the applicant no.2 of original application no. 435 of 2016 joined as Sub-Inspector of West Bengal Police on January 10, 2000 and resigned from the said service in order to join his new assignment as Security Officer of United Bank of Indi. All the applicants rendered more than 10 years of service as Sub-Inspector of West Bengal Police before resigning from the said service to take up new assignment in the Nationalized Bank, which is construed as Central Autonomous Bodies on the basis of Memorandum No. 11322 – F dated October 4, 1989 issued by Finance Department, Audit Branch, Government of West Bengal. The applicants have prayed for grant of pro-rata</i></p>	

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	<p><i>pension for rendering more than 10 years of service under Government of West Bengal immediately after acceptance of their resignation for taking up new assignment. The applicants have also prayed for quashing of letter dated October 17, 2012 issued by the Senior Accounts Officer of Office of Principal Accountant General (A&E), West Bengal, by which the A.G., West Bengal has communicated that the applicants will get the benefit of pro-rata pension on attaining age of 55 years. So, both the original applications can be disposed of by this common order.</i></p> <p><i>Learned Counsel for the applicants contends that the applicants are entitled to get pension as per provisions of Rule 58 and Rule 59 of West Bengal Services (Death – cum – Retirement Benefit) Rules, 1971 (herein after referred to as “DCRB Rules of 1971”). On perusal of the provisions of Rule 58 of the DCRB Rules of 1971, we find that a Government employee who is permitted to retire after completion of qualifying service for 30 years will get the benefit of retiring pension. Similarly, on perusal of provisions of Rule 59 of the DCRB Rules of 1971, we find that members of some specific State services are entitled to get retiring pension on</i></p>	

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	<p><i>completion of 25 years of qualifying service. Since the applicants have completed only 10 years of service as Sub-Inspector of West Bengal Police before acceptance of their resignation for joining their new assignment, the applicants will not be governed either under Rule 58 or under Rule 59 of the DCRB Rules of 1971 as contended on behalf of the applicants.</i></p> <p><i>On the other hand, the Departmental Representative of A.G., West Bengal submits that the applicants are entitled to get pro-rata pension for rendering 10 years of service under Government of West Bengal on the basis of Rule 189A of the DCRB Rules of 1971. On perusal of the provision of Rule 189A of theDCRB Rules of 1971, we fully agree with the submission made on behalf of the respondent A.G., West Bengal. The percentage of giving pro-rata pension for rendering qualifying service of 10 years by any employee of Government of West Bengal is specifically laid down in Memorandum No.201-F (Pen) dated February 25, 2009 issued by the Finance Department, Pension Branch, Government of West Bengal. It is, therefore, crystal clear that the applicants are entitled to get pro-rata pension for rendering 10</i></p>	

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	<p><i>years of service under Government of West Bengal before acceptance of their resignation for joining new assignment in Central Autonomous Bodies.</i></p> <p><i>The question for determination of the Tribunal is when pro-rata pension will be given to the applicants. Rule 189A of the DCRB Rules of 1971 lays down that pro-rata pension will be disbursed from the date on which Government employee would have retired voluntarily under the Rules applicable to him or from the date of his absorption in the Central Autonomous Bodies, whichever is later. On our query, Learned Counsel for the applicants submits that the applicants are aged about 40 years and the applicant of OA 436 of 2016 was absorbed in the Nationalized Bank in the years 2010 and the applicants of OA 435 of 2016 were absorbed in the Nationalised Bank in the year 2012. Accordingly, the age of voluntary retirement of the applicants will be decided as per provisions Rule 75(aaa) of West Bengal Service Rules, Part-I which lays down as follows :</i></p> <p><i>“75(aaa) Any Government employee may, by giving notice of not less than 3 months in writing to the appointing authority, retire from Government</i></p>	

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	<p><i>service after he has attained the age of 50 years, if he is in Group A or Group B (erstwhile gazetted) service or post, and had entered Government service before attaining the age of 35 years; and in all other cases, after he has attained the age of 55 years, provided that it shall be open to the appointing authority to withhold permission to a Government employee under suspension who seeks to retire under this sub-rule.”</i></p> <p><i>By following the above provisions of Rule 75(aaa) of West Bengal Service Rules, Part-I, we find that the applicants rendered their service under Government of West Bengal as Sub-Inspector of West Bengal Police (which belongs to Group – C service) and thereby, the age of voluntary retirement of the applicants will be 55 years. Since, the applicants have been absorbed in Nationalized Banks which is Central Autonomous Body long before attaining age of voluntary retirement, the pro-rata pension will be disbursed in favour of the applicants only on attaining the age of voluntary retirement i.e. only 55 years of age.</i></p>	

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In view of our above findings, we are unable to accept the contention made on behalf of the applicants that they are entitled to get pro-rata pension immediately on acceptance of their resignation for taking up new assignment.

Accordingly, we do not find any merit in the present application. Both the original applications are, thus, dismissed.

Let a plain copy of the order be supplied to all the parties.

S. K. DAS
MEMBER(A)

R. K. BAG
MEMBER(J)

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