

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. OA 712 of 2016

Nitesh Chandra Roy

Versus

The State of West Bengal & Ors.

Serial No. and
date of order

Order of the Tribunal
with signature

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

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25/07/2019

For the Applicant

: Mr. A. Mitra,
Ld. Advocate.

For the Respondent

: Mr. G.P. Banerjee,
Mr. B.P. Roy,
Ld. Advocates.

For the A.G., W.B.

: Mr. B. Mitra,
Deptl. Representative.

The applicant has prayed for direction upon the respondents to pay interest on delayed payment of gratuity, commuted value of pension and other retirement benefits @ 10% per annum during the period from the date of retirement of the applicant till the date of actual payment.

The applicant joined in the post of Task Taker and worked in different jails in West Bengal. He retired from service as Workshop Foreman from Presidency Correctional Home, Alipore on October 31, 2007. The applicant raised the dispute about fixation of his pay and thereby last pay drawn by the applicant on the date of retirement could not be assessed. The fact of promotion of the applicant from the post of Task Taker to the post of Factory Overseer was not accepted by the Senior Accounts Officer of A.G., W.B. Consequently, pension and other retirement benefits of the applicant could not be finalised and disbursed

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	<p>in his favour.</p> <p>The applicant approached this Tribunal by filing OA-1367/2008 which was disposed of on July 21, 2008 by giving direction to the authority concerned to release provisional pension in favour of the applicant till finalisation of Pension and Gratuity. The further direction of the Tribunal was for ratification of re-fixation of pay of the applicant by the Finance Department, Government of West Bengal. The applicant was not satisfied with fixation of pay in terms of the order of the Finance Department, Government of West Bengal. So the applicant moved the Tribunal for the second time by filing OA-46/2010 which was disposed of on July 15, 2015 by directing the concerned respondent for fixation of pay of the applicant in the scale of pay of ₹ 380-910/- and grant him benefit of CAS/MCAS and fixation of last pay drawn on the date of his retirement. Ultimately, pension payment order was issued by the respondent A.G., W.B. on November 24, 2015 by granting the amount of gratuity, pension, arrears of pension and commuted value of pension.</p> <p>The applicant received arrears of pension to the tune of ₹ 1,42,218/- on June 01, 2016, gratuity to the tune of ₹ 1,17,785/- and commuted value of pension</p>	

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	<p>to the tune of ₹ 2,18,610/- on June 13, 2016 respectively.</p> <p>We have heard Learned Counsel for the applicant, Learned Counsel representing the state respondents and the Departmental Representative of the respondent A.G., W.B.</p> <p>Since the applicant has prayed for interest on delayed payment of gratuity, commuted value of pension and other retirement benefits from the date of his retirement from service till the date of actual payment, we have to decide whether the state respondents were liable for the inordinate delay of almost 09 (nine) years for payment of retirement benefits including gratuity and commuted value of pension to the applicant. We have already observed that the last pay drawn by the applicant on the date of retirement could not be assessed as the applicant disputed fixation of his pay and also scale of pay. Even the applicant was not satisfied with the fixation of pay by the Finance Department, Government of West Bengal in compliance with the direction of the Tribunal in OA-1367/2008. Ultimately, pension, commuted value of pension and gratuity were paid to the applicant after direction of the Tribunal on July 15, 2015 in OA-46/2010. So, the period of delay in</p>	

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	<p>payment of retirement benefits including gratuity and commuted value of pension during the period from the date of retirement of the applicant on October 31, 2007 till the date of order of the Tribunal on July 15, 2015 in OA-46/2010 cannot be attributed to conduct of the state respondents.</p> <p>What transpires from the materials on record is that there was delay in actual payment of pension, arrears of pension, gratuity and commuted value of pension after the order of the Tribunal in OA-46/2010 during the period from July 15, 2015 to June 13, 2016. It is pertinent to point out that interest cannot be calculated on arrears of pension paid to the applicant along with pension for the month of May 2016 on June 01, 2016. However, the applicant is entitled to get interest on the amount of gratuity and commuted value of pension for the delay in actual payment of the said amount of money.</p> <p>We would like to give relaxation of at least 03 (three) months in payment of gratuity and commuted value of pension after the order of the Tribunal on July 15, 2015 in OA-46/2010. The natural corollary is that the applicant is entitled to get interest on the amount of gratuity and commuted value of pension from November 01, 2015 till the last date of the month</p>	

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Csm	<p>preceding the month in which actual payment of gratuity and commuted value of pension was done i.e. till May 31, 2016. By taking into consideration interest paid by the Nationalised Bank on long term fixed deposits and interest paid by the Government on the amount of money deposited in the General Provident Fund, we would like to grant interest @ 8% per annum.</p> <p>In view of our above findings, we direct the respondent no. 4, Inspector General of Correctional Services, West Bengal to pay to the applicant interest @ 8% per annum on the amount of gratuity to the tune of ₹ 1,17,785/- and commuted value of pension to the tune of ₹ 2,18,610/- during the period from November 01, 2015 to May 31, 2016 within a period of 08 (eight) weeks from the date of communication of the order. With the above direction, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	