

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble JUSTICE RANJIT KUMAR BAG
& The Hon'ble DR. SUBESH KUMAR DAS**

Case No – OA 830 OF 2014

Md Mursalin v/s 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;">16</p> <hr/> <p>17.09.2018</p>	<p><i>For the Applicant : Mrs. S. Mitra, Learned Advocate.</i></p> <p><i>For the State Respondents : Mr. S. Ghosh, Learned Advocate.</i></p> <p><i>For A.G.(A&E), W.B. : Mr. B. Mitra, Departmental Representative.</i></p> <p style="text-align: center;"><i>The applicant has prayed for direction upon the respondents for re-fixation of pay after treating pay of the applicant as Rs. 9675/- with effect from January 01, 2004 and release of revised pension, revised gratuity and revised commuted value of pension.</i></p> <p style="text-align: center;"><i>The applicant retired from government service on October 31, 2004 and accepted gratuity and pension sanctioned on January 21, 2005. The applicant has virtually challenged the order of re-fixation of pay of the applicant issued by the respondent no. 7 on March 07, 2001 long after ten years of retirement of the applicant.</i></p> <p style="text-align: center;"><i>Mrs. S. Mitra, Learned Counsel representing the applicant contends that the amount of Rs. 1,32,216/- is</i></p>	

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deducted from the gratuity of the applicant on the ground of excess payment by re-fixation of pay of the applicant on March 07, 2001. According to Mrs. Mitra, the applicant has recurring cause of action and as such the applicant can file the application on July 25, 2014 by challenging order of re-fixation issued on March 07, 2001. On the other hand, Mr. Ghosh, Learned Counsel representing the state respondents submits that the applicant has received the amount of pension and gratuity after deduction of Rs. 1,32,216/- about ten years before filing the instant application. We have also heard Mr. B. Mitra, the Departmental Representative of A.G., West Bengal.

On consideration of the materials of record, we find that the applicant was well aware of the order of re-fixation of pay on March 07, 2001 which was issued more than three years before his retirement from service. The applicant waited for long thirteen years for challenging the order of re-fixation of pay and recovery of excess payment of Rs. 1,32,216/-. In our view the present application is clearly barred under section 21 of the Administrative Tribunals Act, 1985. Nothing is on record for explaining the inordinate delay of thirteen years for approaching the Tribunal by the applicant. We cannot persuade ourselves to accept the contention made on behalf of the applicant that the cause of action of the

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*applicant for approaching the Tribunal is recurring one.
In view of our findings, the original application is clearly
barred under section 21 of the Administrative Tribunals
Act, 1985 and as such the same is dismissed.*

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

**(S.K.DAS)
Member (A)**

**(R.K.BAG)
Member (J)**

H.S

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