

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 841 OF 2013

MOHITOSH KUMAR PAHARI 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
16 <hr/> 21.06.2018	<p><i>For the Applicant : Mr. S. Tripathy, Learned Advocate.</i></p> <p><i>For the Respondents : Mr. S. K. Mondal, Learned Advocate.</i></p> <p style="text-align: center;"><i>The applicant has prayed for interest on delayed payment of gratuity. The applicant retired from the post of District Inspector of School, Howrah on December 31, 2011. The contention of the applicant is that he received gratuity to the tune of Rs. 5,84,750/- on January 22, 2013 and thereby the applicant has been deprived of the interest on the amount of gratuity for the period from January 2012 to January 2013.</i></p> <p style="text-align: center;"><i>Learned Counsel for the applicant submits that the applicant was not at fault for the delayed payment of gratuity. On the other hand, Learned Counsel representing the state respondents contends that the applicant did not submit formal application for pension before one year from the date of retirement as laid down in Memorandum No. 1315-F(Pen) dated October 14, 1996 issued by the Joint Secretary to the Government of West Bengal, Department of Finance (Audit Branch-Pension Cell). On perusal of the said Memorandum, we find that</i></p>	

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the Head of the Office of the applicant had the duty to give intimation to the applicant and supply the form for submitting application in the prescribed format for pension and other retirement benefits to the Head of the Office not less than one year in advance from the date of his superannuation. There is nothing on record to indicate that Head of the Office supplied the prescribed form and gave intimation to the applicant before one year from the date of superannuation, though it is on record that the applicant submitted the application in the prescribed format for pension only five months in advance from the date of superannuation. Under the above circumstances, we are of the view that the application was not at fault for delayed payment of gratuity.

The question for consideration of the Tribunal is whether the applicant is entitled to get interest on the amount of Gratuity. By virtue of Memorandum No. 9112-F dated September 24, 1979 issued by the Secretary to the Government of West Bengal, Finance Department, Audit Branch read with letter No. 2196-F(PEN) dated December 09, 1991 issued by the Deputy Secretary, Finance Department, Audit Branch, the applicant is entitled to get interest on Gratuity at the rate of 5 per cent per annum for the period beyond three months when the gratuity becomes due till the end of the preceding month on which payment was actually made, if there was no

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lapse on the part of the applicant. In the instant case, there is nothing on record to indicate that there was any lapse on the part of the applicant and as such, the delay cannot be attributed to the conduct of the applicant. So, the applicant is entitled to get interest on the amount of gratuity as observed herein above.

In view of our above findings the respondents no. 3, Commissioner of school Education, Government of West Bengal is directed to make payment of interest to the applicant @ 5 % p.a. on the amount of Rs. 5,84,750/- for the period from April 01, 2012 to December 31, 2012 within a period of 12 (twelve) weeks from the date of communication of the order.

With the above direction, the original application is disposed of.

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

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

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

H.S