

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman.
& Hon'ble Dr. Subesh Kumar Das, Administrative Member.

Case No. OA 869 of 2013.

MANMATHA KRISHNA ROY – VS- THE STATE OF W.B. & 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;">21</p> <hr/> <p>11.9.2018.</p>	<p>For the Applicant : Mrs. A.C. Sil,, Advocate.</p> <p>For the State Respondent : Mr. M.N. Roy, Advocate.</p> <p>In this application, the applicant, who retired as Station Officer in West Bengal Fire and Emergency Services on 30th November, 2000, has prayed for a direction upon the Respondents to release Earned Leave incremental payment of 58 days amounting to Rs. 31,958/- in his favour. According to the applicant, after retirement from service, he had received all pensionary benefits. He received leave salary of 242 days, though he is entitled to Earned Leave encashment payment of 300 days. Submission is though several representations were made to the authorities those went unheeded. Hence, this application has been filed.</p> <p>After admitting the application, directions were issued to file affidavits. Affidavits have been exchanged.</p> <p>To decide the issue it is appropriate to refer to the relevant portion of paragraph 4 of the reply filed by the State which is as under :-</p>	

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	<p><i>“.....In the present case the applicant superannuated on 30.11.2000 and at that point of time due to wrong calculation, the authorities sanctioned leave salary for 242 days. It is pertinent to mention herein that, such mistake was absolutely unintentional and a bona-fide clerical mistake. It is also pertinent to mention herein that, on attaining superannuation the authorities released all the dues including the Leave Salary for 242 days. Later the applicant approached the authorities for rectifying the leave account and accordingly, through his Ld. Advocate send a notice dated 29.01.2013 , which was received by the authorities on 31.01.2013. On receipt of the Ld. Advocate’s Notice the authorities re-examined his service book and at that point of time it was detected that, there was a human error while calculating the earn leave at the time of disbursement and accordingly, the authorities vide Memo No. 8667/14 dated 10.02.2014 informed the applicant that on scrutiny it revealed that he is entitled to get leave salary for 255 days instead of 242, which was actually granted to him at the time of his superannuation. I further state that such discrepancy was absolutely unintentional and a human error. It is further</i></p>	

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	<p><i>stated that the said mistake and/or human error has been rectified and the same was intimated to the applicant...".</i></p> <p>The said paragraph has been dealt with in paragraph 4 of the rejoinder by the applicant, which is as under :-</p> <p><i>" 4. That with regard to the statements made in paragraph 4 of the said Reply, I deny and dispute the allegation that the same has been filed in gross abuse of the process of law with absolute misconception about law and rules and the original Application is based on colossal misconceptions, erroneous perceptions, misleading interpretation of facts and materials."</i></p> <p>We find that the contention of the State that the petitioner was entitled to leave salary of 255 days instead of 242 days as granted and that there was a mistake in the calculation has not at all been dealt with by the rejoinder filed by the applicant.</p> <p>Therefore, in our view, the applicant is entitled to 13 days Earned Leave encashment. Hence, for the reasons as aforesaid, this application is disposed of by directing the Director General, West Bengal Fire &</p>	

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Skg.	<p>Emergency Services, Kolkata – Respondent no. 2 to issue necessary order for payment of 13 days leave salary to the applicant within eight weeks from the date of presentation of a copy of this order, if not already paid, after verifying the records.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	