

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 659 OF 2014

BIKAL CHANDRA MAHATO 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
17 <hr/> 06.03.2018	<p>For the Applicant : Mr. Masud Karim Mr. Abdus Samad Learned Advocate</p> <p>For the State Respondent: None</p> <p>For the Principal Accountant : Mr. Biswanath Mitra General (A&E), West Bengal Departmental Representative</p> <p>The applicant has filed this original application under Section 19 of the Administrative Tribunals Act, 1985 praying for direction upon the respondents to treat the period of suspension of the applicant as on duty and to pay consequential financial benefits to the applicant.</p> <p>The contention of the applicant is that he joined as Store Keeper on August 10, 1988 under Backward Classes Welfare Directorate, Government of West Bengal. The applicant was posted as Cashier-in-charge in the month of May 1989 and he got promotion to the post of Upper Division Clerk in March, 2008, when he was transferred to the district of Burdwan. The further contention of the applicant is that on December 6, 2010 the Commissioner of Backward Classes Welfare served charge-sheet on the applicant for departmental enquiry on the allegation of committing misconduct by violation of the provisions of</p>	

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Rule 13 (4), 15 (2) (a) of the West Bengal Government Servant's Conduct Rules, 1959. The said departmental enquiry was subsequently dropped and fresh departmental enquiry was started against the applicant before the Vigilance Commission, West Bengal on the basis of notification, issued by the Commissioner of Backward Classes Welfare on November 14, 2011.

With the above factual matrix, Mr. Masud Karim, Learned Counsel representing the applicant submits that the applicant was released from Government Service on superannuation with effect from March 31, 2012 and the departmental enquiry initiated against the applicant was dropped. He further submits that the authority concerned did not take any decision with regard to the period of suspension of the applicant for which the applicant submitted one representation before the respondent No. 2, the Commissioner of Backward Classes Welfare Directorate and the said representation has not been considered by the concerned respondent till date. Mr. Karim also submits that the applicant is deprived of retiral benefits for not deciding the fate of the representation submitted by the applicant before the respondent No. 2 on May 19, 2014.

Mr. Biswanath Mitra, the authorized representative

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of the respondent, Principal Accountant General(A&E), West Bengal contradicts the submission made by Mr. Karim and submits that the departmental enquiry initiated against the applicant was concluded and punishment was imposed on the applicant. He further submits that the Disciplinary Authority awarded punishment by directing 25% pension cut of the applicant for a period of three years from April 1, 2012 to March 31, 2015. The said punishment was imposed on November 16, 2012 and P.P.O. was issued to the applicant accordingly.

Having heard Learned Counsel for the applicant and the authorized representative of the respondent No. 5 we are of the view that the representation submitted by the applicant before the respondent No.2 on May 19, 2014 (Annexure A-4 to the original application) should have been considered by the said respondent in accordance with law. The applicant is deprived of his retiral benefits for not deciding the fate of the period of suspension of the applicant on conclusion of departmental enquiry.

Accordingly, we direct the respondent No. 2 to consider the representation submitted by the applicant on May 19, 2014 (Annexure A-4 to the original application) in accordance with law after giving the applicant an opportunity of hearing within a period of twelve weeks

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from the date of communication of the order and to communicate the result of the same to the applicant within a period of two weeks thereafter.

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)

SCN.