

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

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

Case No –OA 159 OF 2016 & OA- 160 of 2016

Goutam Kumar Dey 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
<p>16 06.09.2018</p>	<p>For the Applicant : Mr. S. Ghosh, Mr. R.K. Mondal, Learned Advocates.</p> <p>For the State Respondents : Mr. R.A.Chowdhury, Learned Advocate.</p> <p>With the consent of Learned Counsel representing both parties, OA 159 of 2016 and OA 160 of 2016 are taken up together for hearing, as both the original applications can be disposed of by this common order.</p> <p>In OA 159 of 2016, the applicant has prayed for direction upon the respondents for fixation of pay and disbursement of salary for the period from September 30, 2008 to February 20, 2009 and consequential yearly increment and other ancillary benefits including relaxation in payment of Professional Tax as physically challenged person. In OA 160 of 2016, the applicant has prayed for direction upon the respondents to grant financial benefits to the applicant for completion of 8 years of service, 16 years of service and 25 years of service under Career Advancement Scheme (CAS).</p> <p>It appears from the materials on record that a criminal case was started against the applicant being Kotwali PS Case No. 325 of 2008 dated June 16, 2008 under Section 498A/302 of the Indian Penal Code when the applicant was working as Medical Technologist (Lab) at JD Hospital in Cooch Behar. The applicant was detained in</p>	

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	<p>custody during the period from July 1, 2008 to September 29, 2008 in connection with the investigation of the said criminal case. The applicant was released on bail on September 30, 2008, but the criminal case is still pending for hearing before the appropriate Court of Law. The applicant was allowed to resume duty by the order of the Director of Health Services, West Bengal on February 20, 2009. The applicant was transferred from Coochbehar to Nadia. The applicant has been denied yearly increment by the Superintendent of District Hospital, Nadia by order dated February 15, 2015. The further grievance of the applicant is that he has not been given financial benefit for completion of 8 years of service, 16 years of service and 25 years of service on the basis of CAS.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the background of suspension of the applicant and pendency of the criminal case against him till date, we are of the view that the entitlement of the applicant to get his pay refixed and to get benefit of CAS cannot be decided till the final decision of the criminal case. If the applicant is acquitted of the charge by the Criminal Court, it is the duty of the applicant to produce certified copy of the judgment delivered by the Criminal Court before the Respondent No. 3, Chief Medical Officer of Health, Nadia and pray for payment of salary of the applicant in terms of Rule 72 of WBSR Pt. I and other consequential financial benefits like refixation of pay, giving annual increment and CAS benefit. The Respondent No. 3 will consider the judgment passed by the Criminal Court, if produced before him and take follow-up action for giving all</p>	

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Rajib	<p>financial benefits to the applicant as per his entitlement under the rules if the applicant is acquitted of the charge by the Criminal Court.</p> <p>With regard to the prayer of the applicant for refund of Professional Tax already deducted from salary by ignoring the status of the applicant as physically challenged person, we are of the view that the Respondent No. 3, Chief Medical Officer of Health, Nadia will consider the entitlement of the applicant to get the benefit in terms of Memo No. 826 dated 23.12.1996 (page 30, Annexure E to the original application) within a period of 8 weeks from the date of communication of the order and take necessary follow-up action within a period of 4 weeks thereafter.</p> <p>With the above direction, both the original applications are disposed of.</p> <p>Let a plain copy of the order be supplied to the parties.</p> <p style="text-align: center;">(Dr. S.K. Das) Member (A)</p> <p style="text-align: center;">(R.K. Bag) Member (J)</p>	

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