

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

**Case No – OA 224 OF 2016**

Sandhya Mukherjee 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
26 02.09.2019	<p>For the Applicant : Mr. A.K. Niyogi, Learned Advocate.</p> <p>For the Respondent : Mr. S. Ghosh, Learned Advocate</p> <p>The applicant has prayed for direction upon the respondents for grant of pension after setting aside the order communicated under letter dated December 21, 2015 issued by the Medical Superintendent-cum-Vice Principal, R.G. Kar Medical College and Hospital.</p> <p>The applicant joined as Nurse under the management of R.G. Kar Medical College and Hospital before taking over the same by the Government of West Bengal w.e.f. May 12, 1958 in terms of the provisions of R.G. Kar Medical College and Hospital Act, 1958. The contention of the applicant is that she retired from service as Staff Nurse on October 31, 2001 after attaining age of 60 years. It is further contended by the applicant that she continued with Contributory Provident Fund (CPF) till the date of her retirement from service and had withdrawn the entire amount from CPF including the employer's share after her retirement from service. It is also contended by the applicant that she had withdrawn the entire amount of gratuity after her retirement from service in terms of rules and regulations of the ex-management of the R.G. Kar Medical College and Hospital, Kolkata. The grievance of the applicant is that she was not granted pension in spite of submitting the representation before</p>	

# ORDER SHEET

SANDHYA MUKHERJEE

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA-224 of 2016**

.....

the concerned authority.

Mr. Niyogi, Learned Counsel for the applicant contends that the applicant is willing to deposit employer's share of CPF along with 10% interest from the date of withdrawal of the amount till the date of deposit of the same with the Government exchequer. He further submits that the applicant is willing to deposit the excess amount of gratuity drawn by the applicant. Mr. Niyogi also contends that the amount to be deposited by the applicant may be adjusted with the amount of arrears of pension after grant of the same in favour of the applicant.

Mr. Ghosh, Learned Counsel representing the State respondents contends that it is difficult for the respondents to collect information about the amount of money to be deposited by the applicant after lapse of almost two decades. The specific submission of Mr. Ghosh is that the applicant must disclose before the authority concerned all information including the amount of money to be returned by the applicant along with interest. He also submits that return of the excess amount of gratuity and the employer's share of CPF with interest @10% p.a. is the pre-condition for grant of pension in favour of the applicant, as the applicant did not exercise her option for being absorbed in Government service when the management of R.G. Kar Medical College and Hospital was taken over by the State Government w.e.f. May 12, 1958.

Having heard Learned Counsel representing both parties and on consideration of the G.O. dated April 4, 2005 issued by the Joint Secretary to the Government of West Bengal, Department of Health

# ORDER SHEET

SANDHYA MUKHERJEE

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA-224 of 2016**

.....

and Family Welfare, PHP(TOI Cell) (Annexure A to the original application), we are of the view that the applicant will have to return the amount of employer's share of CPF with 10% interest from the date of withdrawal of the amount till the date of deposit of the said amount and the excess amount of gratuity received by the applicant after her retirement from service for being considered for grant of pension in terms of G.O. dated April 4, 2005. Since the pre-condition for grant of pension to an employee appointed by the management of R.G. Kar Medical College and Hospital before taking over the same by the State Government is to return of the excess payment of gratuity and return of the amount of employer's share of CPF with interest, we are unable to accept the contention made on behalf of the applicant that the pension of the applicant should be sanctioned first and thereafter the amount to be deposited by the applicant will be adjusted with arrears of pension. We agree with the submission made by Mr. Ghosh that it is difficult for the State respondents to calculate the amount of money deposited by the applicant after lapse of almost two decades. Accordingly, the applicant should disclose all necessary information including the age of her retirement, the amount of employer's share of CPF withdrawn by the applicant and the amount of gratuity received by her after her retirement by submitting appropriate representation before Director of Health Services, Government of West Bengal.

In view of our above observation, we direct the applicant to submit fresh representation before respondent No. 3, Director of Health Services, Government of West Bengal by disclosing the date of her appointment in service, the date of her retirement from service, the

# ORDER SHEET

SANDHYA MUKHERJEE

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA-224 of 2016**  
.....

age of her retirement, the total amount of CPF including the employer's share of CPF withdrawn by her, the date of withdrawal of the amount of CPF, the total amount of gratuity withdrawn by the applicant, the date of withdrawal of the amount of gratuity, amount of last pay drawn by her on the date of superannuation within a period of 8 weeks from the date of this order. If such representation is submitted by the applicant within the stipulated period of time before the respondent No. 3, the said respondent No. 3, Director of Health Services, Government of West Bengal is directed to consider the representation of the applicant in terms of G.O. dated April 4, 2005 issued by the Joint Secretary to the Government of West Bengal, Department of Health and Family Welfare, PHP(TOI Cell) by passing a reasoned order within a period of 16 weeks from the date of submission of the representation and communicate the result of the same to the applicant within a period of 8 weeks thereafter by ignoring the order communicated under letter dated December 21, 2015 issued by the Medical Superintendent-cum-Vice Principal, R.G. Kar Medical College and Hospital.

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

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

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

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

Rajib

**ORDER SHEET**

SANDHYA MUKHERJEE

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA-224 of 2016**

.....

--	--	--