

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 388 OF 2016

Mihir Kumar Saha 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
15 15.01.2020	<p>For the Applicant : Mr. A. Hati, Learned Advocate.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for payment of interest @18% p.a. on the amount of retiring gratuity, commuted value of pension, leave encashment, group insurance and the amount of General Provident Fund for inordinate delay in disbursement of the pension and the said retirement benefits.</p> <p>The applicant retired from the post of Assistant Director of Micro and Small Scale Enterprises, Government of West Bengal on March 31, 2008 after rendering 33 years of service. The contention of the applicant is that he received retiring gratuity on August 19, 2009, commuted value of pension on August 19, 2009, the amount of leave encashment on August 4, 2009, the amount of group insurance on June 4, 2008 and the amount of General Provident Fund on two different dates i.e. on June 9, 2009 and March 1, 2011. It is further contented on behalf of the applicant that the amount of arrears of pension for the period from April, 2008 to September, 2009 was received by the applicant on December 3, 2009. Mr. Hati, Learned Counsel for the applicant contends that no departmental proceeding was</p>	

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pending against the applicant and the respondents caused delay in payment of pension, arrears of pension and other retirement benefits to the applicant without any cogent reason and thereby the applicant is entitled to get interest on arrears of pension and other retirement benefits which were disbursed about one year after retirement of the applicant.

Mr. Ghosh, Learned Counsel representing the State respondents has relied on the reply and submitted that the applicant submitted pension papers long after due date and thereby delay in disbursement of pension and other retirement benefits must be attributed to the conduct of the applicant. He further submits that vigilance clearance could not be given to the applicant for release of pension and other retirement benefits as one enquiry was conducted against the applicant on the allegation of payment of Rs.20000/- to the Contractor for repairing 46 fans without inviting tender. Mr. Ghosh has also submitted that the applicant voluntarily deposited Rs.23000/- for the laches on his part in payment of Rs.20000/- to the Contractor for repairing fans without inviting tender. According to Mr. Ghosh, there was no delay in release of pension and other retirement benefits in favour of the applicant.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant retired on March 31, 2008 from the establishment of

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the Director, Directorate of Micro, Small and Medium Enterprises, Government of West Bengal. Admittedly, the applicant has received arrears of pension to the tune of Rs.171460/- for the period from April, 2008 to September, 2009 on December 3, 2009. He also received the amount of gratuity to the tune of Rs.250000/- on August 19, 2009. Similarly, the applicant received the amount of Rs.216813/- as commuted value of pension on August 19, 2009. The amount of leave encashment to the tune of Rs.214340/- was received by the applicant on August 4, 2009. The amount of group insurance to the tune of Rs.31675/- was received by the applicant on June 4, 2008. It is also not disputed that the applicant received General Provident Fund to the tune of Rs.83676/- in two different spells on June 9, 2009 and on March 1, 2011.

The question for consideration of the Tribunal is whether the applicant is entitled to get interest on the arrears of pension and the above mentioned retirement benefits for the delay in disbursement of the arrears of pension and the said retirement benefits.

On consideration of the materials on record, we find that the applicant submitted FORM 10A on April 30, 2009 for disbursement of the amount of General Provident Fund. A sum of Rs.81219/- was released in favour of the applicant on June 9, 2009 and the balance amount of Rs.2457/- was disbursed in

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favour of the applicant on March 1, 2011. Since the applicant submitted the application in prescribed format only on the last date of the month of April, 2009 and since at least one month time should be allowed for processing the payment of the amount of General Provident Fund, we do not find any delay in disbursement of the amount of General Provident Fund for which interest can be paid to the applicant. That apart, the interest accrued on the amount of money deposited in the General Provident Fund is always taken into consideration at the time of disbursement of the amount of General Provident Fund in favour of the Government employee. So, the question of payment of interest on the amount of General Provident Fund does not arise at all.

Arrears of pension which was calculated during the period from April 2008 to September 2009 was paid on December 3, 2009. Admittedly, the applicant did not submit the application form for payment of pension and commuted value of pension. Moreover, the amount of pension varies month to month depending on the increase of dearness relief which is payable on different point of time and as such interest cannot be calculated on the amount of arrears of pension of Rs.1,71,460/- which was paid to the applicant on December 3, 2009.

A sum of Rs.31,675/- towards group insurance was paid to the applicant on June 4, 2008. Since the applicant retired on March 31, 2008, two months of time must be allowed for

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processing actual payment of group insurance and thereby we do not find any delay on the part of the respondents for which the applicant is entitled to get interest on the amount of group insurance.

On consideration of the materials on record, we find that a sum of Rs.15,425/- was paid as interest on the amount of retiring gratuity (Rs.2,50,000/-) for delay in disbursement of the said amount in favour of the applicant. The interest on the amount of gratuity is calculated @ 5% per annum during the period from April 1, 2008 to July 1, 2009 and as such the applicant is not entitled to get any further interest on the amount of retiring gratuity.

A sum of Rs.2,16,813/- was paid to the applicant as commuted value of pension on August 19, 2009 and a sum of Rs.2,14,340/- was paid to the applicant as leave encashment on August 4, 2009. Since the applicant retired from service on March 31, 2008 and since there was delay on the part of the applicant in submission of necessary papers for processing pension and other retirement benefits, we are inclined to give allowance of three months to the state respondents for processing the amount of leave encashment and the amount of commuted value of pension. No cogent explanation is forthcoming before us as to why the amount of leave encashment and the amount of commuted value of pension could not be paid to the applicant during the period from July 1, 2008 to July 31, 2009. We are unable to accept the contention

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on behalf of the state respondents that the delay took place for not giving vigilance clearance to the applicant and for non-submission of necessary papers for processing pension of the applicant in due time. In our view, the applicant is entitled to get interest on commuted value of pension and on the amount of leave encashment during the period from July 1, 2008 to July 31, 2009.

By taking into consideration the interest paid on the General Provident Fund and the interest paid on the PPF and the interest paid on the long term fixed deposit by the nationalised bank, we are inclined to grant interest in favour of the applicant @8% p.a.

In view of our above findings, the respondent No. 2, Director, Directorate of Micro, Small and Medium Enterprises, Government of West Bengal is directed to make payment of interest in favour of the applicant @8% p.a. on the amount of Rs.216813/- towards commuted value of pension and on Rs.214340/- towards leave encashment during the period from July 1, 2008 to July 31, 2009 within a period of twelve weeks from the date of communicate of the order.

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

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

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Rajib

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