

**IN THE WEST BENGAL ADMINISTRATIVE  
TRIBUNAL  
BIKASH BHAVAN, SALT LAKE CITY  
K O L K A T A – 7 0 0 0 9 1**

**Present :-  
The Hon'ble Smt. Urmita Datta (Sen)  
Member (J)**

**-AND-**

**The Hon'ble P. Ramesh Kumar,  
Member ( A )**

**J U D G M E N T  
-of-**

**Case No. O.A. - 485 of 2016**

**Gangaram Mondal .....Applicant**

**-Versus-**

**State of West Bengal & others....Respondents**

**For the Applicant : - Mrs. Sonali Mitra,  
Advocate.**

**For the State Respondent:- Mr. Soumendra Narayan Ray,  
Advocate.**

**For Pr. A.G. (A & E), W.B. :- Mr. Biswanath Mitra,  
Departmental Representative.**

**Judgment delivered on : 24<sup>th</sup> September, 2019**

**The Judgment of the Tribunal was delivered by :-  
The Hon'ble Smt. Urmita Datta (Sen), Member (J)**

## Judgement

1. The instant application has been filed praying for following relief(s):

**“(a) An order directing the respondents, their agents, subordinates and successors, to rescind, cancel and withdraw the impugned order 13.06.2012 and release regular pension in favour of the petitioner forthwith.**

**(b) An order directing the respondents, their agents, subordinates and successors to produce all records and proceedings so that conscionable justice maybe administered by granting the relief for hereinabove;**

**(c) To pass such other or further orders or orders as to the Hon’ble Tribunal may deem fit and proper;”**

2. As per the applicant, he was posted as Commissioner Tax Officer; one disciplinary proceeding was initiated against him in the year 2002 and subsequently retired from service with effect from 30.09.2002. During the pendency of the departmental proceedings, the applicant had approached this Tribunal in O.A. No. 816/2010, wherein he prayed inter alia :

**“An order directing the respondents, their agents, subordinates and successors to produce all records and proceedings so that conscionable justice maybe administered by granting the relief for hereinabove.”**

Ultimately the said O.A. was disposed of by order dated 13.09.2012, holding inter alia:

**“The reply is filed by the State respondent. The departmental file is produced on behalf of the State respondent.**

**We have gone through the departmental file as well as the order issued by the Deputy Secretary, Govt. of West Bengal, Finance (Revenue) department by the order of the Governor. *“It is ordered that the pension of Shri Gangaram Mondal would be withheld permanently under rule 10(1) WBS (DCRB) 1091.”* The said order was issued in respect of the disciplinary proceeding. When the pension of Shri Gangaram Mondal withheld in respect of departmental proceeding, then the delinquent i.e. Shri Gangaram Mondal is entitled to get gratuity, leave salary, G.I. and G.P.F. on the basis of his retirement.**

**The authority is directed to take appropriate steps to release the gratuity, leave salary, G.I. and G.P.F. within 6 (six) weeks from the date of communication of this order.**

**The application is disposed of accordingly.”**

At the time of final hearing in earlier case, the respondents had placed the final order dated 13.06.2011 passed in the disciplinary proceedings by way of imposing penalty of permanently withholding of pension (Annexure – C). Being aggrieved with, the applicant has filed the instant application.

3. The respondents have filed their reply wherein they have stated that in O.A. No. 816/2010 the final impugned order dated 13.06.2011 was considered and the Tribunal had passed the order accordingly. Therefore, the applicant cannot approach on the self-same ground for quashing of the disciplinary proceedings order after a gap of four years as the impugned order was passed as per Rules in the year 2011. Therefore, they have prayed for dismissal of the O.A. and the applicant was prayed for retiral benefit as per law.
4. As per the applicant, pension is hard earn money of government servant, which cannot be withheld hundred percent. He has further submitted that since the Hon'ble Apex Court had held pension as a property and this right of property cannot be taken away without the due process of law as per provisions of Article 300A of Constitution of India.
5. We have heard both the parties and perused the records. It is noted that one disciplinary proceeding was initiated against the applicant in the year 2002 on the serious charge of issuance of permits in favour of non-existing dealers without conducting any verification or inquiry and due to the pendency of that disciplinary proceedings he was not payed retiral benefit as well as pension. Being aggrieved with, he had filed the O.A. No. 816/2010 along with the prayer for disbursement of pensionary benefit. He had also prayed for quashing of the disciplinary

proceedings. However, on the date of final hearing, the department had placed the final order dated 13.06.2011 passed in disciplinary proceedings, whereby a punishment of hundred percent withdrawal of pension was imposed upon him and this Tribunal after going through the said documents and after hearing both the sides, had only directed to release all retiral benefits but had not passed any order by way of quashing the disciplinary proceedings or the order of punishment. However, the applicant, after a long gap of five years, had filed the instant application praying for quashing of the impugned order dated 13.06.2011 and to release the regular pension. Therefore, in our considered opinion, the application is hopelessly barred by limitation as the applicant was aware of the final punishment in the year 2011 itself and he neither prayed for quashing of the proceedings at the time of final hearing in earlier O.A. nor preferred any appeal against the said order but had merrily accepted the retiral benefits and after five years, he has approached this Tribunal by way of challenging the said impugned order without showing any cogent reason for such delay in filing the instant application.

It is a settled principle of law that in a disciplinary proceedings, the court has a limited scope of judicial review unless and until the said proceedings is vitiated by violation of natural justice or without jurisdiction or in violation of statutory rules and biased. But in the instant matter, this is not the case of the applicant that the punishment has been imposed violating any rules or in violation of natural justice. It is further noted that under Rule 10 of the West Bengal Services (Death cum Retirement Benefit) Rules, 1971, the Governor has right to withhold pension permanently if the pensioner is found guilty of gross misconduct in a departmental proceedings and in the instant case, as the applicant never alleged that there is any violation of natural justice or any provisions of Rules and he was found guilty

in the said departmental proceedings also. Therefore, as per the provisions of the Rules, the Governor has every power to impose such order of penalty. In view of the above, we do not find any reason to interfere with the decision of the respondents authority. Accordingly, the O.A. is dismissed as it is not only barred by limitation but also being devoid of merit with no order as to costs.

**P. RAMESH KUMAR**  
**MEMBER (A)**

**URMITA DATTA (SEN)**  
**MEMBER (J)**