

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No –OA-535 of 2017

Haripada Barman 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
14 07.11.2019	<p>For the Applicant : Mr. B.N. Ray, Learned Advocate.</p> <p>For the State Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to release the retirement benefits of the applicant and other ancillary reliefs.</p> <p>The applicant joined in the post of Helper-cum-Guard in the office of the Block Development Officer, Kaliagunj Development Block, West Dinajpur (subsequently changed as Uttar Dinajpur) on April 30, 1975. The designation of the applicant was changed from Helper-cum-Guard to Assistant Operator in the year 1983. The contention of the applicant is that he got promotion to the post of Operator-cum-Mechanic on December 12, 1989 and worked under Block Development Officer, Kusmandi Development Block. The further contention of the applicant is that he was subsequently reverted to the post of Helper-cum-Guard by order of Superintending Engineer (Agri-Mech), Siliguri Circle on December 16, 2005 on the ground that previous adhoc promotion was granted to the applicant erroneously.</p> <p>The order of reversion of the applicant dated December 16, 2005 was challenged by filing OA No. 64 of 2006 before this Tribunal. The contention of the applicant is that an interim order of maintaining</p>	

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status-quo was granted in favour of the applicant by the Tribunal in OA No. 64 of 2006. However, the said OA No. 64 of 2006 was dismissed for default on April 25, 2011, but the applicant was allowed to function in the promotional post till the date of his superannuation on September 30, 2015. The grievance of the applicant is that he has not been given pension, gratuity and leave encashment till date.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant joined as Helper-cum-Guard and got adhoc promotion to the post of Operator-cum-Mechanic, though the applicant was subsequently reverted to the original post on the ground that adhoc promotion was granted to the applicant erroneously. Since the applicant did not take any step for restoration of OA No. 64 of 2006 which was dismissed for default on April 25, 2011, we cannot persuade ourselves to decide on merit whether the order of reversion of the applicant was justified in law. The issue of reversion of the applicant is now barred by the principles of resjudicata. Be that as it may, the applicant is entitled to retirement benefits namely pension, gratuity and leave encashment on the basis of last pay to which the applicant was entitled in terms of the rules by which the applicant is governed. Since the applicant has not been given any retirement benefit after his superannuation on September 30, 2015, we are of the view that the pension sanctioning authority of the applicant must take urgent necessary steps for release of retirement benefits in favour of the applicant as per his entitlement.

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In view of our above findings, the respondent No.6, Block Development Officer, Dakshin Dinajpur is directed to take necessary steps for payment of pension, gratuity and leave encashment in favour of the applicant on the basis of last pay to which he was eligible within a period of twelve weeks from the date of communication of the order after taking necessary approval from appropriate authority, if necessary.

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

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