

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 734 OF 2017

Major Dilip Kumar Chatterjee 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
7 03.12.2018	<p>For the Applicant : Mr. J. Chakraborty, Learned Advocate.</p> <p>For the Respondents : Mr. R. A. Chowdhury, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for grant of leave salary, gratuity, amount of General Provident Fund (GPF) and other retirement benefits of the applicant.</p> <p>It appears from the materials on record that the applicant joined as Secretary, Zilla Sainik Board, Malda on July 23, 2007 on the basis of order issued by the Department of Women and Child Development and Social Welfare, Government of West Bengal on July 19, 2007. The applicant was subsequently transferred from Malda to Murshidabad as Secretary, Zilla Sainik Board by order dated May 29, 2009 issued by the Secretary of Rajya Sainik Board, West Bengal. The applicant was suspended from service w.e.f. August 26, 2009 in connection with Burdwan Police Station Case No. 110 of 2008 dated June 17, 2008 under Section 420/406/468/506 of the Indian Penal</p>	

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Code, but the said order of suspension was revoked w.e.f. November 29, 2011 by order of the Secretary, Rajya Sainik Board, West Bengal. The applicant retired from service on superannuation on December 31, 2015.

Learned Counsel representing the applicant contends that the criminal case is still pending against the applicant, but the applicant is entitled to get provisional pension, amount of GPF and leave encashment.

Mr. Chowdhury, Learned Counsel representing the State respondents submits on the basis of reply submitted by the State that the applicant did not open GPF Account during the career of his service. He further submits that the applicant is not entitled to get any amount of money from GPF, as the subscription was not made by him towards GPF during the career of service. He also submits that the applicant is not entitled to get any pension for not completion of ten years of service.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the criminal case started against the applicant is still pending for adjudication before the competent Court of Law. The applicant completed service for eight years four months and eight days and thereby he is not entitled to get pension as per provisions of Rule 67 of West Bengal Services (Death-cum-Retirement

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Benefit) Rules, 1971 (in short, the DCRB Rules of 1971). Rule 10(2) of the DCRB Rules of 1971 clearly lays down that gratuity shall not be paid to the Government employee during pendency of the criminal case against him. So the applicant is not entitled to get any gratuity till conclusion of the criminal proceeding pending against him. With regard to the amount of GPF, we find that the applicant did not open his GPF account during his service career and did not subscribe any amount of money towards GPF and thereby the question of payment of amount of GPF to the applicant does not arise. With regard to leave encashment of the applicant, we find that the applicant was under suspension from August 26, 2009 to November 23, 2011. The applicant is entitled to get the amount of leave salary/leave encashment in terms of provisions of Rule 168A2222222 of WBSR Pt. I and there is no bar in disbursement of the amount of leave salary in favour of the applicant, even during the period of pendency of the criminal case against him.

In view of our above findings, the respondent no. 2, Secretary, Rajya Sainik Board, West Bengal is directed to consider the entitlement of the applicant to get the amount of leave encashment in terms of provisions of Rule 168A of WBSR Pt. I after obtaining report from the Secretary, Zilla Sainik Board, Murshidabad and Secretary, Zilla Sainik Board, Malda in this regard within a period of twelve weeks from the date of communication of the order and take necessary follow-up action

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Rajib	<p>within a period of four weeks thereafter.</p> <p>With the above direction, the original application is disposed of.</p> <p>(S.K. DAS) MEMBER(A)</p> <p>(R. K. BAG) MEMBER (J)</p>	
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