

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal, Hon'ble Chairman****& The Hon'ble Dr. Subesh Kumar Das, Administrative Member.****Case No –OA-822 of 2019.****Dr. Nirmalendu Ray. –Vs- The State of West Bengal & Others.**

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
<p style="text-align: center;"><u>3</u> 17.12.2019.</p>	<p>For the Applicant : Mr. G. P. Banerjee, Advocate.</p> <p>For the Respondents : Mr. S. N. Ray, Advocate.</p> <p>In this application, the applicant, a Medical Officer of the West Bengal Health Service, has prayed for a certain reliefs, the relevant portion of which is as under:-</p> <p style="text-align: center;"><i>“.....(a) An order do issue directing the concerned respondent authorities to forthwith grant the applicant the full benefit of weightage in the length of his service, by treating him to be a duly regularized employee with the required eligibility criterion having been fulfilled, after setting aside the impugned Memo. No. HF/O/MA/3330/H/IN – 658 – 99 dated 21.07.2014, issued by the Officer – on – Special Duty & Ex – Officio Joint Secretary,</i></p>	

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	<p><i>Health & Family Welfare Department, MA Branch, Government of West Bengal, being Annexure - "C" herein and to command them to act in accordance with law;</i></p> <p><i>(b) An order be passed directing the concerned respondent authorities to forthwith consider and dispose of the applicant's representations dated 01.03.2017 and 09.06.2017, being Annexure - 'E' herein, in accordance with law without any further delay."</i></p> <p>The relevant portion of the Memo. under challenge is as under :-</p> <p><i>".....2. After careful consideration of the matter, the Governor has now been pleased to accord post-facto approval to the fixation of his pay and</i></p>	

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	<p><i>allowances on his regular appointment in the West Bengal Health Service with effect from 03/02/1982 at the same stage being drawn by him on 02/02/1982 which was arrived at during the tenure of his ad-hoc service as aforesaid as also drawal of subsequent pay and allowances by him in the said regular service till his retirement , as a very special case , in relaxation of normal rules and orders of the State Government. The pensionary benefit of Dr. Nirmalendu Roy would be determined on the basis of the last pay , thus fixed , drawn by him before his superannuation.</i></p> <p>3. <i>The Governor has also been pleased to order that the period of his ad-hoc services from 08/04/1981 to 02/02/1982</i></p>	

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	<p><i>followed by his regular appointment in the West Bengal Health Service with effect from 03/02/1982 would also be counted towards his pensionary benefits. However, he would not be allowed to get any benefit of weightage in the length of service in terms of Rule 27 of WBS (DCRB) Rules, 1971 as amended from time to time or any other benefits like seniority, CAS/MCAS benefits."</i></p> <p>After the memo was issued, the applicant had filed a representation dated 1st March, 2017, praying for review of the order under memo, the relevant portion of which is as under :-</p> <p><i>".....Nevertheless, the decision conveyed by the higher authority for not allowing me to get any benefit of weightage in the length of service in terms of Rule 27 of</i></p>	

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	<p><i>WBS (DCRB) Rules, 1971 as amended from time to time or any other benefits like seniority, CAS/MCAS benefits, has disheartened me. The very reason for such decision has not been mentioned. The matter was moved and brought to the notice to my immediate higher authority from time to time soon after receiving the above Memo and it was assured to me the dispute would be sorted out by taking up the same to the Competent Authority of Deptt. of Health, Govt. of W.B., Kolkata.</i></p> <p><i>It is needless to mention here that so far I have completed almost 36 years of continuous service (without any break) and during my long tenure of service neither I have</i></p>	

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	<p><i>placed under suspension nor faced any departmental inquiry for any serious lapses happened from my part. Always, I performed my official duty with full devotion. Hence, it is not clear as to why I would not be allowed to get any benefit of weightage in the length of service.</i></p> <p><i>I am, therefore, to request your kindness to review your stance and take favourable decision so that I can get full benefit of weightage in the length of service and the case may get solved before my retirement.</i></p> <p><i>....."</i></p> <p>Heard Mr. G. P. Banerjee, learned advocate for the applicant and Mr. S. N. Ray, learned advocate for the State respondents.</p> <p>Since Rule 27 of WBS (DCRB) Rules, 1971 relates to concession of adding to qualifying service and does</p>	

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Sourav	<p>not include the other benefits, no order can be passed on this application. The application is disposed of.</p> <p>After order is passed as prayed for by Mr. Banerjee, this order will not preclude the applicant after retirement to pray for appropriate reliefs in accordance with law before the State authorities, if situation so arises and if so advised.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	