

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

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

Case No –OA 830 OF 2010

Biswajit Sengupta 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
<p>33 05.07.2018</p>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the State Respondent : Mrs. Susmita Mukherjee, Learned Advocate.</p> <p>The applicant Biswajit Sengupta who instituted the present application died during pendency of the proceeding and the legal heirs of the said applicant were substituted w.e.f. July 18, 2015. The original applicant has prayed for quashing of the order dated April 10, 1997 issued by the Special Secretary, Finance Department, Government of West Bengal and for direction upon the respondents to release pay and allowances of the original applicant during the period from April 1, 1981 to April 18, 2007 while he was working as Electrician in the establishment of Executive Engineer Calcutta Agri-Irrigation Division.</p> <p>The Special Secretary to the Government of West Bengal, Department of Finance has stepped up the pay of the original applicant at par with his junior in the same pay scale and in the same post in accordance with provisions of Rule 55 (4) of WBSR Pt. I with effect from the date when the pay of the junior of the original applicant was revised on the basis of ROPA Rules, 1981. The Special Secretary has mentioned in the reasoned order that the pay of the original applicant will be fixed notionally and actual payment of pay and allowances will be made from the date of issuance of the order by this Tribunal on December 18, 1996 in OA</p>	

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	<p>No. 359 of 1996. The applicant has ventilated his grievance for non-payment of actual pay and allowances to the applicant w.e.f. April 1, 1981 by filing the present application. The State respondents have taken the specific plea that the present application is barred by limitation by filing reply which is on record.</p> <p>The issue which calls for determination is whether the present application is barred by limitation. Section 21(1)(a) of the Administrative Tribunals Act, 1985 clearly lays down that the Tribunal shall not admit any application whereby any order is under challenge, unless the application is filed within a period of one year from the date on which the order was passed. Sub-section (3) of Section 21 of the Administrative Tribunals Act, 1985 also lays down that Tribunal may admit any such application beyond the period of one year from the date of the order which is under challenge, if the applicant satisfies the Tribunal that there was sufficient cause for not filing the application within the said period of limitation. In the instant case, the applicant was well aware of the order passed by the Special Secretary to the Government of West Bengal, Department of Finance for stepping up pay of the applicant immediately after passing of the order on April 10, 1997. It appears from the reply of the State respondents that the applicant previously filed OA 178 of 1998 claiming the same relief as claimed by the applicant in the present application and by praying for quashing of the order dated April 10, 1997 passed by the Special Secretary to the Government of West Bengal, Department of Finance. The said original application was</p>	

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Rajib	<p>dismissed for default on October 30, 1998 and the application for restoration of the said original application was also dismissed on February 2, 2001 as the applicant was not at all found to be diligent. It is, thus, crystal clear that the impugned order was within the knowledge of the applicant at least in the year 1998. No explanation is forthcoming before the Tribunal why the applicant approached the Tribunal by filing the present OA 830 of 2010 long after 12 years from the date of dismissal of the earlier original application no. 178 of 1998. In the absence of any explanation of delay for approaching the Tribunal after almost 13 years from the date of passing the impugned order under challenge, we are constrained to hold that the present application is barred under Section 21 of the Administrative Tribunals Act, 1985.</p> <p>Accordingly, the present application is dismissed.</p> <p style="text-align: center;">(Dr. S.K. Das) Member (A)</p> <p style="text-align: center;">(R.K. Bag) Member (J)</p>	

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