

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Mr. Sayeed Ahmed Baba, Member (Admn.)

Case No. OA-252 of 2020

Samir Kumar Biswas - VERSUS - The State of West Bengal & Others

Serial No. and Date of order <u>06</u> 20.12.2021	For the Applicant	: Mr. Tulshi Das Ray, Advocate.
	For the State Respondent	: Mr. A. De, Mrs. R. Sarkar, Departmental Representatives.
	For the Pr.AG (A&E),WB	: Mr. B. Mitra, Departmental Representative.

Since issues are similar, matters from item nos. 21 to 32 of cause list today are taken up for hearing analogously. It appears earlier, the applicants had moved an application being OA-586 of 2018 which, after hearing the parties, was disposed of on 11.06.2019 by passing an order which is as follows :

“Mr. Roy, Learned Counsel for the applicants, submits that the applicants are willing to withdraw the present original application and miscellaneous application on the ground that each of the applicants will submit separate individual original application in due course of time.

Mr. Bhattacharjee, Departmental Representative of the state respondents, submits that the issue of limitation should remain open in case each of the applicants approach this Tribunal afresh by filing separate original application.

Having heard both sides and on consideration of the materials on record, the applicants are permitted to withdraw the original application and miscellaneous application with liberty to file original application separately in individual capacity, subject to law of limitation.

With the above observation, both original application and miscellaneous application stand disposed of.”

For the sake of brevity, it is appropriate to refer to the prayers in Samir

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Kumar Biswas vs. State of West Bengal and Others which is as under :

“i) To cancel and/or set aside the order communication vide memo. No. 42/1304/B1/07 dated 14.09.2017 being annexure ‘A/6’

ii) To direct the concerned respondents to give benefit under Career Advancement Scheme for completion of 10/8 and 20/16 years of service and thereafter gave the benefit under modified Career Advancement Scheme for completion of 25 years service.

iii) Direct the concerned respondents to give all sorts of benefits to the applicant in terms of Memo. No. 713-F(Law)/In-106/98 dated 15.06.2005 issued by the Joint Secretary to the Government of West Bengal, Finance (Audit) Department.

iv) Direct the concerned respondents to fix the pay of the applicant after giving the benefits mentioned hereinabove and give the pensionary and other financial benefit to the applicant accordingly.

v) Any other order or orders, direction or directions as this Hon’ble Tribunal may deem fit and proper.”

The relevant portion of the impugned order dated 14th September, 2019 is as under :

*“To
The District Land & Land Reforms Officer,
Nadia.*

Sub : Fixation of pay of Ex-Amins.

Ref : DL&LRO’s memo. no. 2711 dated 23.06.17.

With reference to memo. no. cited above, this Dte. is of the opinion that the manner of fixation of pay of Shri Sambhu Nath Das, Ex-Amin and others as made from his end appears to be in regular. As such the prayer of Shri Das and others cannot be entertained as referred to. The incumbents may be

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informed accordingly. The original Service Books of Sri Alanath Ghosh & Sri Sushil Kumar Biswas, both Ex-Amins are returned herewith receipt of which may be acknowledged.

Encl : As stated.

Sd/-

*For Director of Land Records & Surveys
West Bengal.”*

It is submitted by Mr. T.D. Ray, learned advocate for the applicants, that after the order had been passed on 11th June, 2019 in OA-586 of 2018, pursuant to the leave granted, the applicants had filed an original applications challenging the order dated 14th September, 2017 which cannot be sustained as it does not contain reasons.

Mrs. R. Sarkar, the Departmental Representative appearing on behalf of the respondents, submits since the applicants have superannuated and the instant applications, though filed separately, after a considerable length of time, no order may be passed. Moreover, fixation of pay was done prior to superannuation.

Heard learned advocate for the applicant, the departmental representative of the State respondents and Mr. B. Mitra, the departmental representative of the Principal Accountant General (A&E), West Bengal. So far as the point of limitation on behalf of the applicants is concerned, as noted that the original application being OA 586 of 2018 was disposed of granting liberty to the applicants to file original application separately in individual capacity subject to law of limitation. Thereafter, original applications have been filed in between 7th August, 2020 and 4th September, 2020. Delay if at all in moving the application is of minor significance. Hence, the point of limitation taken on behalf of the respondents cannot be accepted.

So far as the order dated 14th September, 2017, appearing at page 75 of the application is concerned, we find that the claim of the applicants has been denied without citing any reason and by holding “the prayer of Sri Das and others cannot be entertained as referred to. The incumbents may be informed

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accordingly.” Since no reasons have been assigned in rejecting the claim of the applicants, the memo. dated 14th September, 2017 appearing at page 75 of the original application in OA-252 of 2020 and in other similar applications cannot be sustained and therefore stand quashed. The applications are allowed.

Accordingly, the Director of Land Records and Surveys and Joint Land Reforms Commissioner, Government of West Bengal, the respondent No. 2 (iii) is directed to consider the claim of the applicants individually and separately regarding the grant of benefit under Modified Career Advancement Scheme, which has subsequently been modified for completion of 25 years of service, by passing a reasoned order to be communicated to the parties within fifteen weeks from the date of presentation of copy of this order downloaded from the website of this Tribunal after giving an opportunity of hearing to each of the applicants separately and after verifying the records.

It is made clear this order shall govern the other matters being OA-254/2020, OA-257/2020, OA-260/2020, OA-263/2020, OA-264/2020, OA-275/2020, OA-280/2020, OA-281/2020, OA-282/2020, OA-298/2020 and OA-299/2020 appearing in today’s cause list.

(SAYEED AHMED BABA)
Member (A)

(SOUMITRA PAL)
CHAIRMAN

CSM/HS
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