

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No –OA- 788 of 2022

DR. PARTHA SARATHI GIRI

Vs

The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

: Mr. Subit Kumar Mandal,
Learned Advocate

8
24.03.2025

For the Respondents

: Mr. Sankha Ghosh,
Learned Advocate

For the Principal Accountant
General (A&E), West Bengal

: Mr. Biswanath Mitra,
Departmental Representative

The matter is taken up by the single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for a direction to the respondent authorities to re-fix the salary of the applicant upon addition of due annual increments withheld since 01.07.2015 upto 31.12.2019 and release arrears of salary with interest. As understood from the submissions of Mr. Ghosh, learned counsel that a notification was issued on 18.01.2024 by the Department which was in concurrence with the views of the Finance Department. By this notification, it was ordered that the entire period from 28.09.2014 to 07.10.2018 for 1471 days was to be treated as dies non. During this period, the applicant had availed lien by working in Jawaharlal Nehru Memorial Hospital, Kalyani. The respondent authority had not allowed him such a lien. Thus, this period was considered as dies non and as a consequence, his pension and other retiral benefits were fixed without taking this period as spent on duty. His pension was fixed according to the last pay drawn on his date of superannuation on 31.12.2019 as an Assistant Professor. It also appears that the authorities initially allowed the applicant to go for this post on lien and after expiry of this lien period and without due approval, the applicant continued further in this post on lien. The applicant, aggrieved by the order of the respondent authority treating

this period as dies non, approached Hon'ble High Court which dismissed the application. From the submissions and the records, it has become clear to this Tribunal that the period from 28.09.2014 to 07.10.2018 during which he was serving with the Jawaharlal Nehru Memorial Hospital, Kalyani was not considered as lien and thus the pensionary benefits not considered for this period. This order was the subject matter of contempt before the Hon'ble High Court in CPAN 890 of 2023 in W.P.S.T. 10 of 2023. The contempt application was dismissed and by such dismissal, in the view of this Tribunal, the notification dated 28.01.2024 remains un-assailed and valid.

Mr. Mandal, learned counsel highlights that this order was not a subject matter of challenge in the Hon'ble High Court. Therefore, there is no mention about this order in the High Court's order. The Tribunal has examined the order of the Hon'ble High Court dated 13.08.2024 and is appreciative of the fact that it is aware that the Tribunal is functioning only with one Member. Besides this observation of the High Court, the Tribunal does not find any directions relating to the four years period which has been considered as dies non. So, the Tribunal does not find that these prayers need to be interfered by this Tribunal since the notifications dated 18.01.2024 relating to the period termed as dies non is un-assailed and valid.

With the above observations, the application is disposed of without passing any orders.

SCN.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)