

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

Present.-

The Hon'ble Justice Ranjit Kumar Bag

&

The Hon'ble Dr. Subesh Kumar Das

**Case No. OA 907 of 2014**

Sushil Kumar Dhar

Versus

The State of West Bengal & Ors.

Serial No. and  
date of order

Order of the Tribunal  
with signature

Office action with date  
and dated signature of  
parties when necessary.

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18/09/2019

**For the Applicant**

: Mr. S.N. Ray,  
Ld. Advocate.

**For the Respondent**

: Mr. R.A. Chowdhury,  
Ld. Advocate.

The applicant joined in the post of Medical Technologist on September 17, 1979 and retired on September 30, 2011. The contention of the applicant is that he has not been given pension and other retirement benefits and that he is getting provisional pension on the basis of the interim order passed by the Tribunal. It appears from the letters dated January 21, 2013 and June 13, 2013 issued by the Senior Accounts Officer of A.G. (A&E), West Bengal that the A.G. (A&E), West Bengal wanted to know from the respondent no. 5 the details of the order issued by the Finance Department, Government of West Bengal in favour of the applicant for granting higher scale of pay. The reply by the state respondents indicates that the applicant was given scale of pay of ₹ 425-1050/- in accordance with the order of the Hon'ble High Court at Calcutta. The fixation of pay of the applicant was revised from time to time in accordance with the provisions of ROPA 1990, 1998 and 2009 and benefit of Career Advancement Scheme was also given for completion of 10 years of service/20 years of service/25 years of service on the basis of the order of the Hon'ble High Court, Calcutta passed on July 8, 1991

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	<p>and on April 11, 1994. The order passed by the Learned Single Judge of the Hon'ble High Court, Calcutta was set aside on appeal on April 6, 1998. When the State preferred Special Leave Petition before the Hon'ble Supreme Court of India, the matter was remitted back to the High Court and fresh hearing was done on September 26, 2001 and order was passed in favour of the State of West Bengal. The petitioners who moved the Hon'ble High Court at Calcutta filed an application for modification and reconsideration of the order dated September 26, 2001, but the Hon'ble High Court gave liberty to the petitioners to submit representation and directed the State to pass a reasoned order. The copy of the reasoned order passed in compliance with the direction of the Hon'ble High Court at Calcutta on May 10, 2006 is placed on record by Learned Counsel for the applicant.</p> <p>It appears from the said reasoned order dated May 10, 2006 passed by the Principal Secretary to the Government of West Bengal, Finance Department that there was no question of rationalization of pay scales in the basic grade as there was only one basic pay scale in the basic grade available under the provisions of Revision of Pay &amp; Allowances Rules applicable to the petitioners of the writ petition. In view of the facts disclosed above, the pay of the applicant is required to be refixed for deciding entitlement of the applicant for</p>	

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	<p>pension and other retirement benefits.</p> <p>The state respondents have taken the specific plea that pay of the applicant is required to be refixed as per provisions of the rules and G.O. issued by the Finance Department, Government of West Bengal and overdrawn amount, if any should be recovered from the retirement benefits of the applicant. On the other hand, argument advanced on behalf of the applicant is that no amount of money is overdrawn by the applicant and thereby the question of recovery of overdrawal amount does not arise. In this regard, we would like to observe that the pay of the applicant is required to be fixed as decided by the Hon'ble High Court at Calcutta and observations made by the then Principal Secretary to the Government of West Bengal, Finance Department in the reasoned order communicated under letter dated May 10, 2006 which is placed on record. The applicant has prayed for direction upon the respondents to release retirement benefits and has also prayed for quashing of the letters dated January 21, 2013 and June 13, 2013 issued by the Senior Accounts Officer of A.G. (A&amp;E), West Bengal.</p> <p>On consideration of the letters dated January 21, 2013 and June 13, 2013 issued by Senior Accounts Officer of A.G. (A&amp;E), West Bengal, we find that the Senior Accounts Officer has only asked for necessary Government Order issued by the Finance Department for fixation of higher scale of pay of the applicant. We do</p>	

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	<p>not find any illegality or irregularity in issuance of the said letters and as such, the question of quashing of the said letters does not arise at all. With regard to the other prayer of the applicant, we are inclined to give direction to the respondent no. 2 for taking decision in respect of entitlement of the applicant for pension and other retirement benefits.</p> <p>Accordingly, we direct the respondent no. 2, Director of Health Services, Government of West Bengal to take a decision about entitlement of the applicant for pension and other retirement benefits on the basis of order passed by the Hon'ble High Court at Calcutta from time to time and the reasoned order passed by the Principal Secretary to the Government of West Bengal, Department of Finance within a period of 12 (twelve) weeks from the date of communication of the order and to communicate the result of the same to the applicant and other appropriate authorities within a period of 02 (two) weeks thereafter.</p> <p>With the above direction, the original application stands <b>disposed of</b>.</p> <p>Let a <b>Plain Copy</b> of the order be supplied to both parties.</p> <p><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	

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