

**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-351 of 2017.****Sankar Prosad Sen. –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>19</u> 10.12.2019.</p>	<p><b>For the Applicant : Mr. T. K. Das, Advocate.</b></p> <p><b>For the State Respondents : Mr. A. L. Basu, Mr. G. P. Banerjee, Advocates.</b></p> <p><b>For the Principal Accountant : Mr. B. Mitra, General (A&amp;E), West Bengal. Departmental Representative.</b></p> <p>In this application, the applicant, who had superannuated on 30<sup>th</sup> April, 2010, has prayed for the certain reliefs, the relevant portion of which is as under :</p> <p style="text-align: center;"><i>“(a) An order be passed upon the respondent authorities to sanction and release the interest @ 18% per annum on the amount of provident fund money to be Calculated from the date of retirement till the date of actual disbursement i.e. on an from 30<sup>th</sup> April, 2010 to 6<sup>th</sup> April, 2015 in favour of the applicant by setting aside the Memo dated 18<sup>th</sup> March, 2016 issued by the</i></p>	

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.....

Form No.

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.....Case No. OA-351 of 2017.

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	<p><i>Accounts Officer, Office of the Accountant General (A&amp;E), West Bengal, forthwith;</i></p> <p><i>(b) An order be passed directing the respondent authorities to pay the balance provident fund amount with interest in favour of the applicant forthwith; .....</i></p> <p>After the matter was admitted, directions were issued to file reply and rejoinder. Replies have been filed by the State respondents as well as by the Accountant General (A&amp;E), West Bengal. Rejoinders have been filed on behalf of the applicant.</p> <p>Mr. T. K. Das, learned advocate appearing on behalf of the applicant submits that as under the relevant rules it has been stipulated that the benefits of ROPA'98 were to be credited in the provident fund account and as there is an anomaly since 1997 in crediting the said amount and as a result the final statement could not be prepared at the time of retirement of the applicant, his client could not</p>	

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.....

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	<p>withdraw the amount from the provident fund account. Submission is as it is evident that the applicant earlier had submitted Form 10A which was returned and thereafter, had to apply for provident fund in Form 10A on 7<sup>th</sup> May, 2014, his client is entitled to claim interest on the delayed payment of provident fund. On a query it is submitted that the disputed ROPA'98 amount is Rs. 32,534/-.</p> <p>Mr. A. L. Basu, learned advocate appearing on behalf of the State respondents, relying on the reply submits that there is no dispute that the applicant had superannuated on 30<sup>th</sup> April, 2010. After his retirement he filed an application for provident fund in Form 10A on 7<sup>th</sup> May, 2014, that is after more than four years after retirement. On receipt of the application and after completion of formalities, provident fund was paid on 6<sup>th</sup> April, 2015. Since under the rules the applicant during his service tenure was at liberty to withdraw 90% of provident fund amount and as the prescribed rules stipulate that an application, for withdrawal of money, has to be made within two months from the date of retirement and as the applicant during his service tenure neither applied for withdrawal of 90%</p>	

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.....

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	<p>amount on which there was no embargo nor filed an application within two months after superannuation, no order may be passed. Assuming the amount Rs. 32,534/- was unpaid, since the issue arose the year 1997-1998 and the applicant did not ventilate his grievance on the said issue before the appropriate forum at the relevant point of time, he is now estopped from agitating the said issue.</p> <p>Heard learned advocates for the parties.</p> <p>We find that this application has been filed for payment of interest at the rate of 18 per cent per annum on sum of Rs. 7,52,607/- which was due under the provident fund.</p> <p>In paragraph 1 of the reply filed on behalf of the State respondents it has been stated as under:-</p> <p style="text-align: center;"><i>“1. At the outset I submit that the instant application is misconceived and is not maintainable in law. In view of the fact that applicant retired from service on superannuation on</i></p>	

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Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA-351 of 2017. .....

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	<p><i>30.04.2010. After retirement he applied for his GPF money in Form 10A only on 07.05.2014 i.e., after more than 4 years. On receipt of the said application and observing necessary process the said GPF amount was paid to him on 06.04.2015. As such the allegation for delay payment and prayer for interest for such delay have no foundation either in law or in fact. Therefore, the reliefs as prayed for in this application are not maintainable. ...."</i></p> <p>The rejoinder filed by the applicant does not controvert the statements made in paragraph 1 of the reply filed on behalf of the State respondents. It is also not disputed that during service tenure, a government</p>	

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Form No.

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Sourav	<p>servant is entitled to withdraw 90% of the amount which the applicant did not exercise. It is also not disputed that the applicant within two months of superannuation should have filed an application for withdrawal of provident fund and in case of delay the applicant was not entitled to interest. Had there been any dispute with regard to the grant of ROPA'98 benefits which arose in the year 2017-2018, the applicant should have applied before the appropriate forum at that relevant point of time. Now at this stage, he cannot reopen the said issue. Therefore, no order is passed on this application. The application is disposed of.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	