

W.P.S.T. 119 of 2026

**Chanchal Kundu
VS.
The State of West Bengal & Ors.**

Mr. Surajit Samanta,
Ms. Sohini Samanta,
Mr. Roop Shankar Roy,
Mr. Subhasis Maity

...for the Petitioner

Ms. Chandreyi Alam, Id. A.G.P.,
Ms. Kakali Dutta

...for the State

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Heard the learned senior advocate for the applicant/writ petitioner and the learned State advocate.
3. The present writ petition is filed and placed for consideration before the Division Bench wherein writ petitioner is seeking a direction upon the respondent authorities to forthwith disburse pensionary benefits and subsistence allowance and other consequential benefits during pendency of the petitioner's original application bearing O.A. No.1034 of 2017, before the West Bengal Administrative Tribunal (for short "*Tribunal*").
4. A departmental proceeding was initiated against the petitioner on 11.07.2001. The writ petitioner was also proceeded against in a criminal proceeding, which was dismissed in 2006. The

petitioner assailed the continuance of the proceeding and the proposed punishment order before the Tribunal in the O.A. No. 1034 of 2017. A Miscellaneous Application was filed in view of the proposed punishment being communicated to the petitioner, on which certain positive orders were passed.

5. According to the learned senior advocate, the petitioner attained the age of superannuation on 31.01.2021. Thereafter, the master-servant relationship has snapped. The petitioner seized to be an employee. Therefore, there is no question of continuance of any departmental proceeding. It is submitted that under the circumstances, the petitioner is entitled to the arrear of salary, which he was deprived on account of continuance and pendency of the disciplinary proceeding till 31.01.2021. The proceeding lapsed on his attaining age of superannuation. As there is no question of recovery of any alleged loss caused to the Government in the present case, the petitioner is entitled to full pensionary benefits.
6. It is submitted that for the last more than four years the Tribunal was functioning with the single member. Therefore, the Tribunal was not considering the matter on merits.
7. We considered the submissions. The sum and substance of the petitioner's claim based on

alleged laps of the departmental proceeding, upon the applicant/writ petitioner attaining the age of superannuation, is his claim for payment of the arrears due for his service period and grant of pensionary benefits after date of attaining superannuation on 31.01.2001.

8. We are of the view that since a substantially fresh cause of action is being raised by the applicant/writ petitioner the matter is required to be raised before the Tribunal.
9. However, the Tribunal is non-functional for want of any member since September, 2025. Considering the judgement of the Hon'ble Supreme Court of India in the case of ***L. Chandra Kumar Vs. Union of India & Ors.*** reported in **(1997) 3 SCC 261** and the subsequent judgement in the case of ***Roger Mathew Vs. South Indian Bank Ltd. & Ors.*** reported in **(2020) 6 SCC 1**, the petitioner cannot be left remediless. In the circumstances, petitioner is entitled to invoke the writ jurisdiction of this court for consideration before the bench dealing with the determination of service matters.
10. We make it clear that we have not invited any affidavits and not considered the submissions noted above, on merits. Therefore, the present order may not be deemed as an expression of opinion by this Court on the petitioner's claim.

11. Reserving the petitioner's liberty to invoke the writ jurisdiction by filing a writ petition, the present writ petition is disposed of.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)