

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. OA – 688 of 2022

Arghya Majumdar - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>10</u> 29.01.2025	For the Applicant	: Mr. M.N. Roy, Mr. G. Halder, Advocates.
	For the Respondent No. 1 & 2	: Mr. G.P. Banerjee, Advocate

For the Respondent No. 3 : None.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 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 authority not to deduct the alleged overdrawn amount from his salary. As submitted by Mr. Roy, relying on papers at page 14 onwards, the applicant's promotion date was shifted from 01.09.2014 to 01.09.2015 and consequently his pay has also been revised. With the shifting of the promotion date, the designation has also been changed from Supervisor of Estates to U.D. Assistant with effect from 01.09.2015. As per this internal note submitted by Mr. Roy, the employee was directed to deposit the overdrawal amount. As a result of this order, as shown in the pay slip of the applicant's salary for the month of August, 2022, his basic has been brought down from Rs. 38,800/- to Rs. 37,700/-. The pay slip of August also shows amount overdrawn for D.A. of Rs. 4738/-, overdrawn H.R.A. Rs. 1176/- and Basic overdrawn as Rs. 7,860/-. Submission of Mr. Roy is to the effect that without fault of the applicant, the respondent has not only been downgraded in designation but also recovered the overdrawals from his August salary without even giving a chance to represent. Mr. Roy relying on the Rafiq Masih case reported in (2015) 4 SCC 334 submits that the action taken by the respondent is illegal and liable to be set aside.

In response to the points raised by the applicant in this application, the State respondents filed a reply. Such reply which was also served upon the applicant side presents a detailed background picture under what circumstances the applicant had to be reverted back to his previous post of LDA. It appears that the applicant was earlier

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upgraded to the post of supervisor of Estate, which is equivalent to Upper Division Assistant on temporary basis. By dint of the Ropa Rule 1981, the Government issued an enabling order dated 06.08.2021, by which the posts of Accountant, Account cum Auditor and Supervisor of Estates, all being equal to the post of UDA were redefined and reverted. It has also become clear that the applicant, as a fall out of such redesignation of the post, was reverted back to his previous post of LDA. Such order was made for his redesignation since he was the most junior incumbent holding the post of Supervisor of Estates on temporary basis. The Tribunal does not find any arbitrary actions on part of the respondent authorities while issuing this order. The Tribunal is also not satisfied, as argued by the applicant side that such demotion and recovery of the excess amount is in violation of the Rafiq Masih case reported in (2015) 4 SCC 334 for the reason that the facts and circumstances of both the case are completely different. Thus, having examined the matter closely, this Tribunal has come to this conclusion that the respondent authorities were correct and within its legitimacy to pass such an order on the applicant. This application is disposed of without passing any order.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P