

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.
& The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –OA-24 of 2019.

Dr. (Prof.) Manoj Kumar Chaudhuri. – Versus – The State of West Bengal and Others.

Serial No. and Date of order	For the Applicant	: Mr. G. P. Banerjee, Advocate.
<u>14</u> 27.04.2022.	For the State Respondents	: Mr. S. Ghosh, Advocate.

For the Principal Accountant General : None.
(A&E), West Bengal.

In this application, Dr. (Prof.) Manoj Kumar Chaudhuri - the applicant, who had superannuated on 30th June, 2017 from his last place of posting at Institute of Post Graduate Medical Education & Research, Kolkata as “Professor and Head of the Department, Pathology”, has prayed for several reliefs, the relevant portion of which is as under :-

“a) A direction do issue upon the concerned respondent authorities to forthwith set aside/cancelled/rescind/quash/withdraw the impugned order dated 19.04.2017 and Memo. dated 04.10.2018 respectively, being Annexure-‘A’ and ‘B’ herein after immediate refund of Rs. 8,63,311 in favour of the applicant, so deducted from his entire gratuity and a part of Commuted Value of Pension and to command them to act strictly in accordance with law;”

Mr. G. P. Banerjee, learned advocate appearing on behalf of the applicant, relying on the judgements in OA-1045 of 2014 : Bireswar Dey –V. State of West Bengal & Ors., in OA-694 of 2016 : Dr. Swarup Kumar Sinha Roy Vs The State of West Bengal & Ors. and on the judgment in Kalyan Kr. Chattopadhyay v. State of W.B. : (2006)WBLR (Cal) 591 submits that since the amount was overdrawn by the applicant for no fault of his own and was paid over a long time

ORDER SHEET

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and not immediately prior to his retirement, orders as prayed for may be passed.

Mr. S. Ghosh, learned advocate appearing on behalf of the State respondents, relying on the reply, particularly paragraph 4 thereof, submits that as the applicant has not pleaded hardship and has made a self-declaration that the amount of Rs. 8,63,311/- may be recovered from gratuity and commuted value of pension, which is appearing at page 18 of the reply, no order may be passed.

Heard the learned advocates for the parties. Since in the instant case the applicant has not pleaded hardship and has given a self-declaration for recovery of the amount of Rs. 8,63,311/- from his retiring gratuity and commuted value of pension which distinguishes it on facts from the judgments in Bireswar Dey (Supra), Dr. Swarup Kumar Sinha Roy (Supra) and Kalyan Kr. Chattopadhyay (Supra), no order can be passed on the application. The application is disposed of.

(SAYEED AHMED BABA)
MEMBER (A)

(SOUMITRA PAL)
CHAIRMAN

S.M.