

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 486 of 2021

Ajoy Kumar Mahato -- VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. M. Karim, Ld. Advocate.
	For the State respondent	: Mr. M.N. Roy, Ld. Advocate.
<u>10</u> 14.06.2023	For the Pr.AG (A&E), WB	: Mr. B. Mitra, Depttl. Rep.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

From the submissions and the record it appears that the gratuity amount has been withheld by the respondent authority on the ground that the applicant owes some repayment of loan with one Vidyasagar Central Co-operative Bank Ltd., Goaltore Branch. As per information available with Mr Roy, learned advocate-on-record for the State respondents, the total outstanding dues to be paid by the applicant stands at around Rs.2,18,000/- as principal amount and Rs.1,58,000/- as the accumulated interest as on 28.07.2022. In support of the action taken by the respondent in withholding the gratuity, Mr. Roy had referred to Rule 8 of the West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 in which it is stipulated that the gratuity can be withheld in case loan amount and interest have not been paid by an employee. Further, Mr. Roy refers to Memo. 717-F dated 20.01.2005 of the Finance Department, the relevant portion of this Notification is as under :

“In terms of Section 58(2) of the West Bengal Co-operative Societies Act, 1983, it is the obligation of the employer of to be more specific the D.D.O. to deduct from the salaries or wages and retiring gratuity or death gratuity which is payable to a member of a Co-operative Society from such employer such amount as specified in the agreement executed by the member in favour of the Co-operative Society providing that the employer shall be competent to make such deduction and pay the debt or other demands of the Co-operative Society against the employer of D.D.O. shall, on the requisition of the Co-operative Society in writing, make the deduction in accordance with the agreement and pay the amount to the Co-operative Society for so long as the Co-operative Society does not intimate that the debt or demand has been fully paid.”

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Vs.

The State of West Bengal & Ors.

After hearing the submissions of the learned counsels, the application is disposed of by directing the Respondent No. 2. (v) i.e. Assistant Director of Agriculture (Farm Superintendent), Jute Seed Multiplication Farm, Goaltore, Paschim Medinipur to issue a Notice upon the applicant mentioning total amount of dues including the interest after verifying the same from the Bank within a period of 8 (eight) weeks from the date of communication of this order. Once such a demand notice is received by the applicant, it is obligatory on him to repay the total dues of the Co-operative Society within the stipulated time as fixed by the Bank. Such repayment of the loan including interest should be paid by the applicant within a period of 4 (four) weeks from the date of such notice is issued by the Bank. Further, in case if the applicant defaults to repay the loan along with interest within the stipulated time, the respondent will be at liberty to deduct the same amount from his gratuity and release the balance as per the relevant Notification of the Government.

Accordingly, the application is **disposed of.**

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS