

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA 620 of 2022

JAYANTA KUMAR NASKAR –VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	:	Mr. Soumendra Narayan Ray, Advocate
	For the State Respondents	:	Mr. Sankha Ghosh, Advocate
<u>4</u> 21.02.2023	For the Principal Accountant General (A&E), West Bengal	:	Mr. Biswanath Mitra, Departmental Representative

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 parties, the case is taken up for consideration sitting singly.

Mr. Soumendra Narayan Ray, learned counsel appearing on behalf of the applicant and relying on the judgement in the case of State of Punjab & Others v. Rafiq Masih (White Washer) & Others reported in (2015) 4 SCC 334, prays for a direction to the respondents to refund an amount of Rs.1,49,020/- deducted from the applicant from his gratuity. Mr. B. Mitra, appearing on behalf of the Principal Accountant General (A&E), West Bengal submits that the actual figure is Rs.1,28,113/-.

Mr. Sankha Ghosh, learned counsel appearing on behalf of the State submits that the said amount was deducted on 07.09.2016 after paying the balance of Rs.4,50,980/-. Therefore, there is a clear limitation point of approaching the Tribunal in the year 2022.

Mr. Ray, countering the point made by Mr. Ghosh and relying on Para 18 of the Rafiq Masih cases submits that in Para 18(ii) even Group C employee are covered by this judgement. Further, 18(ii) also covers the applicant since he had already superannuated. Mr. Ray, further submits that this matter of release of pension and deduction etc. is not barred by limitation because this is a continuous

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cause of action.

Mr. Ghosh, referring to the pension paper, submits that the knowledge of the amount deducted was very much with the applicant since 2015. Since then the applicant, although aware of the deduction, did not file any application before the Tribunal or any sort of representation before the respondent. Therefore, filing an application before the Tribunal after lapse of seven years, this application is barred by limitation.

SCN. Mr. Ray, however, disagrees with the point of limitation and according to him this is a continuous cause of action and the respondent never communicated to the applicant the fact that this amount was deducted from his gratuity.

Let a reply of the State respondent be submitted by the next date. Matter to appear under the heading "Reply, Rejoinder and Objection" on 07.07.2023 for filing reply.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)