

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 620 of 2022

Jayanta Kumar Naskar - VERSUS - THE STATE OF WEST BENGAL & ORS.

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| Serial No. and Date of order | For the Applicant | : Mr. S.N. Ray, Learned Advocate. |
| <u>03</u> 21.12.2022 | For the State Respondent | : Mr. S. Ghosh, Learned Advocate. |
| | For the Pr. A.G(A&E), W.B. | : Mr. B. 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 contesting parties, the case is taken up for consideration sitting singly.

Affidavit of service filed by the applicant be kept on record.

Mr. S.N. Ray, learned counsel appearing on behalf of the applicant and relying on the judgment 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. S. 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. Ghosh, contends that the applicant was a Station Officer which is a post equivalent to Group – C and therefore not covered under the Rafiq Masih judgment.

Mr. Ray, countering the point made by Mr. Ghosh and

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relying on Para 18 of the Rafiq Masih cases submits that in Para 18 (ii) even Group C employee are covered by this judgment. 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 cause of action.

The matter is admitted.

Mr. Ghosh seeks accommodation to submit the reply after instruction from the State before the next date.

Let the matter appear under the heading "Hearing" on 21.02.2023. Reply, Rejoinder, if any, in the meantime.

SAYEED AHMED BABA
Officiating Chairperson & MEMBER (A)

H.S