

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 882 OF 2019**

GADADHAR GHOSH - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

17
27.06.2024

For the Applicant : Mr.S.K.Ghosh
Advocate

For the State respondents : Mr.Soumendra Narayan Ray
Advocate

For the Principal Accountant : Mr.Biswanath Mitra
General (A&E) West Bengal (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 and the learned Departmental representative for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has prayed for a direction to the respondent authorities to pay and disburse all the pensionary benefits and arrears thereof without recovering the amount of Rs. 3,76,810/- from his Gratuity. The applicant has also by the amended prayers prayed for a direction to the concerned respondent to refund the sum of Rs. 3,76,810/- which was deducted from his Gratuity. By the advice of the Principal Accountant General (A&E) West Bengal by Memo. dated 27.12.2016 the office of B.D.O. Khargram had deducted such excess payment from the Gratuity.

Mr.S.K.Ghosh. learned counsel submits that such deduction from the Gratuity of the applicant after retirement is not legally tenable. An employee who has served all the while and drew his salary fixed at pay scale 300-625/-, cannot now be penalised for an alleged erroneous

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fixation and deduction of the overdrawn amount from his Gratuity.

Disagreeing with what Mr.Ghosh submitted, Mr.S.N.Ray, learned counsel for the State respondent insists that it is the duty of the respondent's side to correct an error when detected. In this case, the office of Principal Accountant General (A&E) West Bengal had detected the anomaly that the applicant was receiving a higher scale of pay 300-625/- instead of 245-455/-. The Accountant General's office rightly pointed out this and advised the Block Development Officer to rectify the same by way of recovering the excess amount of Rs. 3,76,810/- from his Gratuity. Mr.B.Mitra, also points out that though the applicant has objected to such recovery of the excess amount, but has not disputed the fact that his actual pay scale should have been Rs. 245-455/-.

Having heard the submissions of the learned counsels and the learned Departmental representative and after examination of the records in this application, the Tribunal is satisfied that the pay scale erroneously fixed was later corrected by the Block Development Officer upon advise of the Principal Accountant General. It was a correct action to recover the overdrawn from his Gratuity.

Therefore, this application, devoid of any merit, is disposed of without passing any orders.

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

BLR