

ORDER SHEETSHRI CHINTA HARAN GORAIN.
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Form No.

Vs.Case No. **OA 325 of 2019.**
.....

THE STATE OF WEST BENGAL & OTHERS.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p>connection with the original application a copy of which is furnished to Mr.R. De, learned advocate for the applicant.</p> <p>Perused the report.</p> <p>Heard learned advocates for the parties.</p> <p>As admittedly, the applicant belongs to Group C and prays for refund of Rs. 2,76,238/- , the recovery of which was initiated by the authorities in May, 2018 and culminated with the deposit of the amount by the applicant on 15th December, 2018, we are of the view that the issue is covered by the judgement in State of Punjab vs Rafiq Masih : (2015) 4 SCC 334, particularly the law laid down in paragraph 18 sub paragraphs (i) and (b) which is as under :-</p> <p>“18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in</p>	

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Skg.	<p>law;</p> <p>(i)Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).</p> <p>(ii)Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.....”.</p> <p>Since the applicant belongs to Group C and the process of recovery of Rs. 2,76,238/- was initiated in the month of May, 2018, which is one year within the date of retirement and as the issue is settled by the law laid down in State of Punjab –v- Rafiq Masih (supra), such recovery is not sustainable and is, therefore, set aside and quashed.</p> <p>The Superintendent of Police, Bankura – the respondent no. 3, is directed to refund the amount of Rs. 2,76, 238/- to the applicant within twelve weeks from the date of presentation of a copy of this order.</p> <p>The application is disposed of.</p> <p>(Subesh Kumar Das) Member (A).</p>	(Soumitra Pal) Chairman.

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