WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

Hon'ble Justice Soumitra Pal, Hon'ble Dr. Subesh Kumar Das, Hon'ble Chairman & Administrative Member.

Case No. OA 325 of 2019. SHRI CHINTA HARAN GORAIN – VERSUS- THE STATE OF WEST BENGAL & ORS

SHRI CHINTA HARAN GORAIN — VERSUS- THE STATE OF WEST BENGAL & ORS.				
Serial No. and	Order of the Tribunal with signature	Office action with date		
Date of order.	2	and dated signature		
1		of parties when necessary		
		3		
7	For the Applicant . Mr. D. De			
13.8.2019.	For the Applicant : Mr. R. De,			
13.0.2013.	Ms. A. Halder,			
	Advocates.			
	Fourth a Ctata Decomposition of Man NA N. Dec.			
	For the State Respondents : Mr. M.N. Roy,			
	Advocate.			
	to this continuing the continue and other			
	In this application the applicant, who had			
	retired on 31 st October, 2018 as Assistant Sub Inspector			
	of Police, has prayed for certain reliefs, the relevant			
	portion of which is as under:-			
	"a) An order or mandate or direction upon			
	the respondent authority to refund upon the respondent			
	authority to refund the amount to the tune of Rs. 2,76,			
	238/- (Rupees Two Lakh Seventy Six Thousand Two			
	hundred Thirty Eight) only to the applicant which has been			
	deposited by the applicant after his retirement.			
	b) An order or mandate or direction upon the			
	respondent authority to return back the amount to the			
	applicant which has been deposited by the applicant by			
	the Treasury Challan on 5 th December, 2018".			
	Pursuant to the directions contained in the			
	order dated 19 th July, 2019. Mr. M.N. Roy, learned			
	advocate for the State respondent has filed a report in			

	Vc
form No.	
	SHRI CHINTA HARAN GORAIN.

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

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Order of the Tribunal with signature	Office action with date and dated signature
2	of parties when necessary
	3
onnection with the original application a copy of which	
furnished to Mr.R. De, learned advocate for the	
pplicant.	
Perused the report.	
Heard learned advocates for the parties.	
As admittedly, the applicant belongs to Group	
and prays for refund of Rs. 2,76,238/-, the recovery of	
which was initiated by the authorities in May, 2018 and	
ulminated with the deposit of the amount by the	
pplicant on 15 th December, 2018, we are of the view	
hat the issue is covered by the judgement in State of	
unjab vs Rafiq Masih: (2015) 4 SCC 334, particularly the	
aw laid down in paragraph 18 sub paragraphs (i) and (b)	
hich is as under :-	
"18. It is not possible to postulate all	
ituations of hardship which would govern employees on	
ne issue of recovery, where payments have mistakenly	
een made by the employer, in excess of their	
ntitlement. Be that as it may, based on the decisions	
eferred to hereinabove, we may, as a ready reference,	
ummarise the following few situations, wherein	
ecoveries by the employers, would be impermissible in	
	princetion with the original application a copy of which furnished to Mr.R. De, learned advocate for the oplicant. Perused the report. Heard learned advocates for the parties. As admittedly, the applicant belongs to Group and prays for refund of Rs. 2,76,238/-, the recovery of hich was initiated by the authorities in May, 2018 and alminated with the deposit of the amount by the oplicant on 15 th December, 2018, we are of the view that the issue is covered by the judgement in State of unjab vs Rafiq Masih: (2015) 4 SCC 334, particularly the well ald down in paragraph 18 sub paragraphs (i) and (b) hich is as under: "18. It is not possible to postulate all tuations of hardship which would govern employees on the issue of recovery, where payments have mistakenly the made by the employer, in excess of their intitlement. Be that as it may, based on the decisions aftered to hereinabove, we may, as a ready reference, immarise the following few situations, wherein

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	law;		
	(i)Recovery from the en	nployees belonging to	
	Class III and Class IV service (or G	roup C and Group D	
	service).		
	(ii)Recovery from the r	etired employees, or	
	the employees who are due to reti	re within one year, of	
	the order of recovery".		
	Since the applicant bel	ongs 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	e is settled by the law	
	laid down in State of Punjab –v- Raf	iq Masih (supra), such	
	recovery is not sustainable and is	, therefore, set aside	
	and quashed.		
	The Superintendent of I	Police, Bankura – the	
	respondent no. 3, is directed to refu	and the amount of Rs.	
	2,76, 238/- to the applicant within t	welve weeks from the	
	date of presentation of a copy of thi	s order.	
	The application is dispos	ed of.	
	(Subesh Kumar Das)	(Soumitra Pal)	
Skg.	Member (A).	Chairman.	

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