

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag
&
The Hon'ble Dr. Subesh Kumar Das

Case No. OA - 387 of 2013

Sankar Prasad Pal

Versus

The State of West Bengal & Ors.

Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
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20 <hr/> 11/03/2019	<p>For the Applicant : Mr. S.N. Chattopadhyay, Ld. Advocate.</p> <p>For the State Respondent : Mrs. S. Agarwal, Ld. Advocate.</p> <p>The applicant has prayed for direction upon the respondents for release of leave salary for 108 days, for giving five annual increments during the period from June 01, 2008 to March 31, 2009 and grant of benefit of Career Advancement Scheme in terms of ROPA 2009 and also for refund of Rs. 52, 309/- which was deducted from retiring gratuity due to excess payment of salary.</p> <p>It appears from the materials on record that the applicant retired from service on March 31, 2009 from the establishment of the respondent no. 3. On September 22, 2008 the Appellate Authority of the applicant modified the order of punishment imposed on the applicant by the disciplinary authority. It appears from the said order of the Appellate Authority that punishment for withholding the five increments with cumulative effect from June 01, 2003 to June 01, 2007 was restored w.e.f. June 01, 2008. Having emboldened by the fact of restoration of increment which was previously withheld with cumulative effect</p>	

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	<p>it is contended on behalf of the applicant that he is entitled to get annual increment for five years and benefit of Career Advancement Scheme in terms of ROPA 2009. The state respondents have placed documents in order to establish that fixation of pay of the applicant was done by giving annual increment w.e.f. June 01, 2008 as directed by the Appellate Authority in the order dated September 28, 2008. The reply of the state respondents further indicates that benefit of Modified Career Advancement Scheme for completion of 25 years of service was also given to the applicant w.e.f. June 01, 2008. The applicant is entitled to get leave salary for 69 days as reflected from the entries made in the Service Book of the applicant, which was paid to the applicant in due course. The applicant has already received Pension, Gratuity, Commuted value of pension and Leave Salary to which the applicant was entitled. In view of our above observation, we can safely hold that the applicant is not entitled to get further benefit of Leave Salary or annual increment or benefit of Career Advancement Scheme as prayed by the applicant.</p> <p>Now, the issue for consideration of the Tribunal is whether the applicant is entitled to get refund of Rs. 52,309/- which was recovered from the retiring gratuity of the applicant on the ground of excess</p>	

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Csm	<p>payment due to wrong fixation of pay. In view of the proposition of law laid down by the Hon'ble Supreme Court in paragraph 18 of the judgment of "State of Punjab v Rafiq Masih" reported in (2015) 4 SCC 334, the applicant is entitled to get refund of Rs. 52, 309/- which was recovered from the retiring gratuity on the ground of excess payment due to wrong fixation of pay, which was detected after retirement of the applicant from service.</p> <p>In view of our above observation, the respondent no. 2, Director Information, Department of Information and Culture, Government of West Bengal is directed to refund Rs. 52, 309/- to the applicant within a period of 12 (twelve) weeks from the date of communication of the order. With the above direction, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	