

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

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

Case No. OA 584 of 2017.

SRI RANJAN KUMAR SARKAR - VERSUS- THE STATE OF W.B. & 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>16 13.9.2019.</p>	<p>For the Applicant : Mr. A. Hati, Mr. D. Mondal, Advocate.</p> <p>For the State Respondent No. 1 to 5 : Mr. S. Ghosh, Advocate.</p> <p>For the Principal Accountant General (A & E) West Bengal: Mr. B. Mitra, Departmental representative.</p> <p>In this application the applicant has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p><i>“(a).....An order to issue by directing the respondent authorities, their agents, subordinates and successors to disbursed the pensionary benefits as well as Salary from 27.07.2012 to 31.01.2013 in favour of the applicant forthwith;</i></p> <p><i>(b)An order do issue by directing the respondent authorities, their agents, subordinates and successors to set-aside/quashed/nullified the award dated 05.12.2012 passed by the Learned Arbitrator without jurisdiction in respect upon the Learned Arbitrator....”.</i></p>	

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	<p>It appears that the applicant was appointed as Store keeper under the Director of Fisheries on 25th October, 1984 and was promoted to the post of Upper Division Clerk on 8th July, 2003. It has been stated that in 2009 the applicant was the honorary chairman of Kulia Meen Credit Co-operative Society. During his tenure as chairman, the Secretary of the said Society made a complaint to the police alleging defalcation by the applicant. Subsequently, arbitration proceedings were initiated and an award was passed on 5th December, 2012, the relevant portion of which is as under :-</p> <p><i>“.....As because the above huge amount of defalcation by two Ex-Directors are nothing but embezzlement of fund of co-operative society and creating with all the general members of the society, the Arbitration Court passes order to opposite party No. 3,4 and 5 i.e. Asst. Director Fisheries cum D.D.O., Deputy Director of Fisheries, P.O. N.S.S. ,P.S. – Kalyani, Dist. – Nadia and Director of Fisheries, West Bengal J.N. Block, Bidhannagar, Sector – 5 Meen Bhaban, Salt Lake City, Cal-</i></p>	

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	<p><i>91, not to disburse any retiral benefit to Sri Ranjan Sarkar i.e. O.P. No.1 after his retirement on 31.01.2013 until Sri Sarker refunds all the amount due to him with interest @ 15% on the date of repayment. Af Sri Ranjan Sarker has some deposition of money on or after 31.3.2011, that amount will naturally be excluded from the claim against him. Sri Sarker may refund the total amount through a single payment a through twelve equal monthly instalments. The amount of instalment will be fixed by mutual settlement between Sri Ranjan Sarker and the petitioner. This Court also comments that if Sri Ranjan Sarker fails to repay any two consecutive instalments, the petition has every right to appeal to the Execution Court for recovery of amount.</i></p> <p><i>This Arbitration Court also passes an Order to opposite party No.3,4 and 5 not to disburse any retiral benefit to Sri Uttam Kumar Chatterjee, i.e. O.P. No. 2 after his retirement untill Sri Chatterjee refunds all the amount due to him by the society with interest @ 15% on the date of repayment. The amount deposited by Sri Uttam Kumar Chatterjee on or after 31.3.2011 will natinally be excluded from. The claim against him. Sri Chatrterjee may refund the total award through a single</i></p>	

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	<p><i>payment a through six equal monthly instalments. The amount instalment will be fixed by mutual settlement between Sri Uttam KumarChatterjee and the petitioner. This court also comments that if Sri Uttam Kumar Chatterjee fails to repay any two consecutive instalments the petitioner has every right to appeal to the Execution Court for recovery of defalcated amount from Sri Uttam Kumar Chatterjee....”.</i></p> <p>According to Mr. A. Hati, learned advocate for the applicant, under the service conditions as the arbitrator cannot pass an award withholding retirement benefits, appropriate order may be passed directing payment of salary for the unpaid period and the superannuation benefits.</p> <p>Mr. S. Ghosh, learned advocate for the State respondent submits that admittedly award has been passed on 5th December, 2015 directing not to disburse the retirement benefits of the applicant. Thereafter for execution of the award, execution case has been filed, which is proceeding. Moreover a criminal case is also pending. Therefore, no order may be passed.</p> <p>Mr. Hati in reply submits that he has no knowledge whether appeal has been filed against the</p>	

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	<p>award passed by the arbitrator. However as it is admitted that criminal case is pending, submission is appropriate order may be passed directing the authorities to grant interim allowance and to disburse the amount of the applicant deposited in the general provident fund.</p> <p style="text-align: center;">Heard learned advocate for the parties.</p> <p>In view of the submission made on behalf of the applicant, the application is disposed of by granting liberty to the applicant to pray for interim allowance by filing an application before the Director of Fisheries, Government of West Bengal – the respondent no. 5. If such application is filed, the said respondent no. 5 shall dispose of the same by passing a reasoned order to be communicated to the parties, after giving an opportunity of hearing, within ten weeks from the date of filing the application along with a copy of this order. So far, payment of GPF is concerned, keeping the award of the Arbitrator in mind as well as the submission made on behalf of the applicant, as this Tribunal has no jurisdiction to adjudicate on the merits of an award dated 5th December, 2012 passed by the learned Arbitrator, the applicant is also at liberty to file an application before the respondent no. 5 regarding disbursement of GPF. If such</p>	

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Skg.	<p>application is filed, it shall be disposed of by passing a specific order regarding disbursement of GPF within four weeks after giving an opportunity of hearing.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	