

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Present- The Hon'ble Justice Soumitra Pal (Chairman) &
The Hon'ble Dr.Subesh Kumar Das (Administrative Member)

Case No. OA-850 OF 2019

SHRI SITHILESH CHANDRA CHOWDHURY Vs. 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 style="text-align: center;"><u>02</u> 26.11.19</p>	<p>For the Applicant : Mr.G.P.Banerjee Advocate</p> <p>For the Respondent : Mr.S.N.Ray Advocate</p> <p style="text-align: center;">Affidavit of service filed today be kept on record.</p> <p style="text-align: center;">Though the matter has appeared under the heading "Admission Hearing", Mr.G.P.Banerjee, learned advocate appearing on behalf of the applicant submits that the matter may be taken up for hearing and disposed of which is not opposed by Mr.S.N.Ray, learned advocate for the State respondents.</p> <p style="text-align: center;">In the application, the applicant has prayed for certain reliefs, the relevant portion of which is as under:</p> <p style="text-align: center;">"a) A mandatory direction do issue upon the concerned respondent authorities to forthwith reimburse the overdrawn amount of Rs. 1,84,675/- only in favour of the applicant, so recovered from his</p>	

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	<p>retiring benefits, in implementation of the solemn Order of this Hon'ble Tribunal dated 20.12.2017 passed in O.A. No. 802 of 2017, being Annexure-'A' herein, as well as to pay interest at the rate of 10% p.a. over and above the said amount of Rs. 1,84,675/- only from the date of issuance of the Government order dated 07.05.2018 for payment of such amount, being Annexure-"B" herein, to the day of actual payment thereof and to command them to act strictly in accordance with law."</p> <p>We find that earlier, the applicant had moved an application, being OA-802 of 2017, praying, inter alia, for directions upon the respondents to fix and disburse pension and terminal benefits in his favour on the basis of his last pay on 31st March, 2014 by setting aside the revised pension order dated 19th November, 2014 issued by the State authorities as well as the order of clarification dated 28th October, 2016 issued by the Finance Department, Government of West Bengal. Prayer was also made for a direction</p>	

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	<p>upon the respondents to make reimbursement of an amount of Rs. 1,84,675/- recovered from the applicant on the ground that it was overdrawn. The Tribunal by judgement and order dated 20th December, 2017 had, inter alia, directed as under:</p> <p style="text-align: center;">“Therefore, having regard to the factual matrix of the present case, we consider fit and proper to set aside the revised pension order dated 19-11-2014 issued by the Executive Engineer, Metropolitan Drainage Division No.1, Irrigation and Waterways Directorate, Government of West Bengal as well as the order of clarification dated 28-10-2016 of the Finance Department, Government of West Bengal. We also direct the Respondents, particularly the Respondent no. 4, namely, Executive Engineer, Metropolitan Drainage Division No. 1, Irrigation & Waterways Directorate, Government of West Bengal, to fix and disburse regular pension and other retiral benefits in favour of the Applicant on the</p>	

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	<p>basis of his last pay on 31-03-2014. The entire process including disbursement of such regular pension including arrears of pension as well as other retiral benefits shall have to be completed within twelve weeks from the date of communication of this order. The Respondents are also directed to make immediate reimbursement of the allegedly overdrawn amount of Rs. 1,84,675/- only recovered from the Applicant, within six weeks from the date of communication of this order”.</p> <p>Pursuant to the said judgement and order, the Joint Secretary to the Government of West Bengal had passed an order dated 7th May, 2018, the relevant portion of which is as under:</p> <p>“In view of the Order dtd. 20.12.2017 passed by the Hon’ble WBAT in O.A. No. 802/17 in the matter of Sithilesh Chandra Chowdhury -Vs- the State of West Bengal & Ors, the undersigned is directed by the Order of the Governor and to say that the</p>	

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	<p>Governor has been pleased to allow regular pension and other retiral benefits considering the Applicant's last pay as on 31.03.2014 which arrived after getting the benefit of CAS as well as MCAS in terms of Finance Departments' Order on the Court awarded scale of pay in respect of the Applicant herein to the post of 'Store Keeper' as well as to refund him Rs. 1,84,675/- (One Lakh Eighty Four Thousand Six Hundred and Seventy Five) only as deducted earlier as overdrawal from the retiring benefits of the Applicant herein of the case being O.A. 802/17 namely Sri Sithilesh Chandra Chowdhury, Ex-'Store Keeper', posted in the Office of the Metropolitan Drainage Division No. 1, under this Department.</p> <p>This order is issued with concurrence of the Finance Department vide their U.O. No. Group PI/2018-2019/0027 dtd. 25.04.2018".</p>	

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	<p>It appears that the Principal Accountant General (A&E) West Bengal had issued revised pension order as evident from page 28 of the application. However, as the sum of Rs. 1,85,675/-, the recovered amount, was not refunded, the applicant made a representation on 11th March, 2019 praying for disbursement of the said amount. It appears that the Executive Engineer, Metropolitan Drainage Division No. 1, Irrigation and Waterways Directorate to the Pay and Accounts Officer, Kolkata Pay and Accounts Office-III, Kolkata, had issued a memo. dated 24th May, 2019 stating that a certificate was necessary, the relevant portion of which is as under:</p> <p style="text-align: center;">“Now to initiate the process of refund, a certificate from your end is necessary (as asked vide memo no m28-IE dt 11.01.19 of the Jt. Secy, I&W Deptt) regarding deposit of the overdrawal of Pay & Allowances with respective Hd of A/C.</p> <p style="text-align: center;">The undersigned is also seeking your opinion regarding the process of payment of the said amount”.</p>	

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BLR	<p>Since we find that the judgement dated 20th December, 2017 passed by the Tribunal in OA-802 of 2017 was in favour of the applicant and thereafter, accordingly necessary order was issued on 7th May, 2018 with the concurrence of the Finance Department, we are of the view that the memo dated 24th May, 2019 seeking a certificate from the Pay and Accounts Officer is not necessary and unjust and is therefore, set aside and quashed. The application is allowed. Accordingly, Executive Engineer, Metropolitan Drainage Division No.I, Irrigation and Waterways Directorate, Government of West Bengal, Kolkata, the respondent no. 4 is directed to refund the amount of Rs. 1,84,765/- to the applicant within 8 weeks from the date of presentation of a copy of the certified copy of this order. The application is disposed of.</p> <p style="text-align: center;">(S.K.DAS) MEMBER (A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	