

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA-93 of 2019**

Narayan Debnath

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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03
05/04/2019

For the Applicant : Mr. B. Chakraborty,
Mrs. S. Agarwal,
Ld. Advocates.

For the State Respondent : Mr. G.P. Banerjee,
Ld. Advocate.

For the A.G., W.B. : Mr. B. Mitra,
Depttl. Representative.

Affidavit of Service filed on behalf of the applicant today is kept on record. The original application is admitted for hearing.

The respondents are directed to file reply within a period of 04 (four) weeks and rejoinder, if any, may be filed by the applicant within a period of 02 (two) weeks thereafter.

Mr. Chakraborty, Learned Counsel for the applicant contends that the impugned order for recovery of excess payment issued by the Principal Secretary to the Government of West Bengal, Department of Finance, Audit Branch on July 18, 2016 and order dated October 10, 2017 issued by O.S.D. & E.O. Assistant Secretary to the Government of West Bengal, Department of Finance, Audit Branch

ORDER SHEET – (Continuation)

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	<p>must not be acted upon by the concerned authority till the final decision of the original application. On the other hand, Mr. Banerjee, Learned Counsel for the state respondents submits that the excess payment drawn by the applicant on the basis of deputation pay even after his repatriation to the parent cadre for suspension must be allowed to be acted upon without granting any stay of operation of the said orders at this stage of the proceeding.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the fact that the applicant was suspended on May 03, 2013 by his disciplinary authority due to his involvement in a criminal case u/s 120(B), 406, 420, 467, 468, 471, 472 of Indian Penal Code read with Section 13(2) and 13(1)(d) of the prevention of Corruption Act, 1988 and the said order of suspension was issued with specific direction to the applicant not to leave the headquarters at Calcutta during the period of suspension. On consideration of the order of suspension, we are of the view that the applicant was deemed to be repatriated to the parent cadre from the post of his deputation as Finance Officer of West Bengal University of Health Sciences and as such it prima-facie appears that the applicant was not</p>	

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Csm	<p>entitled to get subsistence allowance by taking into consideration the deputation pay to which he was entitled while working as Finance Officer of West Bengal University of Health Sciences. In view of our above observation, we would like to hold that the applicant has failed to make out prima-facie case for an interim order as prayed by Learned Counsel for the applicant. As a result, the interim order is refused.</p> <p>List the matter under the heading ‘Reply/Rejoinder’ on July 02, 2019.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	