

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

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

Case No –OA 691 OF 2014

**MAFIL TIWARY & ANR. Vs The State of West Bengal & Ors.**

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>22</p> <hr/> <p>14.12.2018</p>	<p>For the Applicant : Mr. A.K. Das Sinha Advocate</p> <p>For the State Respondent : Mr. G.P. Banerjee, Mr. B.P. Ray Advocate</p> <p>For the A.G., West Bengal: Mr. B. Mitra, Departmental Representative</p> <p>In this application, the applicant no.1, working as a Subedar under the Kolkata Police and who had retired from service on 30<sup>th</sup> June, 1993 and the applicant no.2, working as a Constable under the Kolkata Police and retired from service on 31<sup>st</sup> December, 2010, have prayed for a direction upon the respondents to immediately release full monthly pension to them and to release the amount deducted from monthly pension to the applicants along with interest. It is submitted by Mr. A.K. Das Sinha, learned advocate for the applicants that since it has been held by the Calcutta High Court in C.O. No. 1294 of 1991 that flats occupied by the applicants is public premises and not government premises within the meaning of the statute, deduction on account of rent is illegal. In this connection, reliance has also been placed</p>	

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	<p>on the order dated 13<sup>th</sup> February, 1995 passed in C.O. No. 19057 (W) of 1994 by the learned single Judge of the Calcutta High Court. Our attention has also been drawn to Rule 10 of WBS (DCRB) Rules, 1971.</p> <p>Mr. G.P. Banerjee, learned advocate appearing on behalf of the State respondents submits that as the applicants after retiring in the year 1993 and 2010, have got their dues and the applicants had acceded to the conditions contained in the circular issued by the Commissioner of Police, particularly para 867 of the C.P.G., dated 29<sup>th</sup> May, 1989 that the allotment of the premises made will automatically terminate upon retirement of the allottee, the applicants should have vacated the premises immediately after retirement. Since the applicants still continue to enjoy the premises, deduction has been made.</p> <p>Mr. B. Mitra, the departmental representative adopts submissions of Mr. Banerjee.</p> <p>In reply Mr. Das Sinha submits that his clients have not got full retirement benefits as submitted on behalf of the State.</p> <p>Heard learned advocates for the parties. The applicant no.1 had superannuated on 30<sup>th</sup> June, 1993 and</p>	

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	<p>the applicant no.2 retired from service on 31<sup>st</sup> December, 2010. Though it is submitted on behalf of the State respondents that pensionary benefits have been released which is seriously disputed by the applicants, we fail to understand that since a memo dated 8<sup>th</sup> June, 1999 was issued to the respondent no.2, regarding deduction of amount from gratuity with regard to rent compensation, why it was not challenged by the applicants at that point of time. The said memo has also been relied on in the case of the applicant no.2. The orders passed in C.O. No. 1294 of 1991 and in C.O. No. 19057 (W) of 1994 relied on by the learned advocate for the applicants are not applicable in the facts and circumstances of the case in view of the circular dated 29<sup>th</sup> May, 1989, whereupon it has been specifically stipulated that the allotment will automatically terminate after retirement of the allottee which, it appears, was not brought to the attention of the Court in C.O. No. 1294 of 1991 and in C.O. No. 19057 (W) of 1994. It is evident that the applicant no.1, who had superannuated about 25 years ago and the applicant no.2, who had retired in the year 2010, continue to enjoy the government premises. The order passed in C.O. No. 19057 (W) of 1994 does not lay down law. Rather it goes against the applicants because it shows that though direction was issued upon the respondents to disburse his retirement benefits on an early date, “preferably within a period of 3 months from the date of communication of this</p>	

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SCN.	<p>order”, however, it is also clear that the premises therein was deemed to be held to be a government flat. Moreover, the deduction has been made from the interim relief because the rent due after retirement of a government employee is government dues.</p> <p>Hence, the application is dismissed.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	