

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

**The Hon'ble Justice Soumitra Pal,  
& The Hon'ble Dr. Subesh Kumar Das.**

**Case No –OA-1306 of 2016.**

**Santosh Kumar Mukherjee. –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>12</u> 19.02.2019.</p>	<p><b>For the Applicant : Mr. S. K. Ghosh, Advocate.</b></p> <p><b>For the Respondents : None.</b></p> <p><b>For the Principal Accountant : Mr. B. Mitra, General (A&amp;E), West Bengal. (Departmental Representative).</b></p> <p>Though the matter has come up under the heading "Reply/Rejoinder and Objection", on the prayer of Mr. S. K. Ghosh, learned advocate for the applicant, the matter is taken up for hearing which Mr. B. Mitra, Departmental Representative for the Principal Accountant General (A&amp;E), West Bengal, is his usual fairness, does not oppose.</p> <p>It appears from records that though directions were issued to file reply, no reply has been filed on behalf of the State respondents.</p> <p>In this application the applicant who had superannuated on 31<sup>st</sup> March, 2010, has challenged the action of the respondent authorities to recover a sum of Rs. 5,95,131/- from his superannuation benefits.</p> <p>It is submitted by Mr. Ghosh that as the issue is covered by the judgment of the Supreme Court in State of Punjab and Others -Vs- Rafiq Masih : (2015) 1 Supreme 671, particularly the law laid down in paragraph-12 thereof, the action of the respondents in</p>	

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Sourav	<p>recovering the amount is not permissible in law.</p> <p>Mr. Mitra, Departmental Representative, submits that the overdrawn amount deducted is Rs. 3,96,867/- on account of mistake in pay and allowances and not as stated in the petition.</p> <p>Heard Mr. Ghosh, learned advocate for the applicant and Mr. Mitra, Departmental Representative for the Principal Accountant General (A&amp;E), West Bengal. Perused the application, particularly the annexures at pages 39 and 42 thereof. We find that the total overdrawn amount regarding pay and allowances is Rs. 3,96,867/- which is not permissible in view of the judgment of Supreme Court in State of Punjab and Others etc. -Vs- Rafiq Masih (supra). Hence, the said deduction of Rs. 3,96,867/- is set aside and quashed. The application is allowed. Accordingly, the Block Development Officer, Khargram, Murshidabad - the respondent no.-2 is directed to refund the said sum of Rs. 3,96,867/- to the applicant within twelve weeks from the date of presentation of a copy of the order.</p> <p><b>(DR. SUBESH KUMAR DAS)</b> <b>MEMBER (A)</b></p> <p><b>(SOUMITRA PAL)</b> <b>CHAIRMAN</b></p>	