

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. O.A. 350/01113/2016

Date of order: 9.8.2016

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

ASHIM KR. SARKAR

VS.

UNION OF INDIA & ORS. (Culture)

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mr. B.P. Manna, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Heard Ld. Counsel for both the parties.

2. This application has been filed seeking setting aside/quashing of impugned order dated 10.6.2016 passed by Accounts-cum-Administrative Officer, Central Reference Library whereby and whereunder the said authority having examined the matter in terms of the directions of this Tribunal in an earlier O.A. being O.A. No. 1323 of 2013 recalculated the excess amount paid to the applicant as Rs. 1,88,134/- as against the previous calculation of Rs. 3,47,234/-. He has, therefore, directed that the amount of Rs. 1,88,134/- be recovered from the salary of the applicant in 24 instalments @ Rs. 7839/- p.m. w.e.f. June, 2016.

3. The matter was heard on earlier occasion when Ld. Counsel for the applicant took us through the due drawn statement prepared afresh in terms of our earlier direction. He could satisfy that the statement was

wrongly drawn up since in place of "drawn" the amount was reflected as Rs. 18, 51, 325/- whereas in place of "due" the amount was Rs. 20, 39, 459/- which indicated that the amount due was more than the amount drawn and so there was no question of any recovery from the Applicant.

4. Upon instructions Learned Counsel for the respondents today submitted that in place of "due" the word "drawn" was printed and vice versa in place of "drawn", "due" was printed and, therefore, the error occurred, which has been corrected.
5. At this juncture, the learned Counsel for the Applicant submitted that the figures reflected in the instatement are still incorrect. The learned counsel for the Applicant has also submitted that in view of the latest decision of the Hon'ble Apex Court in the case of State of Punjab & Ors v. Rafiq Masih (White Washer) and Ors reported in Civil Appeal No. 11527 of 2014 arising out of SLP (C) No. 11684 of 2012, no recovery was permissible since the overpayment related to a period from 01/02/2006 i.e. beyond six years from the date the due drawn statement was prepared or the recoveries were proposed. We refrain from making any order with regard to recovery, as we find that this Bench had already passed an order on 11/08/2015 in earlier OA, directing the Respondents to calculate the due drawn statement afresh after giving due notice to the applicant and to recover any recoverable amount

and release the balance, which order was neither assailed before the higher court nor sought to be before this Tribunal.

6. However, since this Tribunal cannot go into the nitty gritty of calculation or make a roving and fishing enquiry to find out the exact due, in view of the factual dispute raised by the applicant, this OA is disposed of with a direction upon the respondents to give a personal hearing to the applicant with due notice within one month from the date of communication of this order where the applicant is free to take the support of the decision of the Hon'ble Apex Court in the case of Rafiq Masih (supra) and, thereafter, within one month, the authority concerned should pass appropriate reasoned and speaking order. There shall be no order as to costs.

(Jaya Das Gupta)
Administrative Member

Bidisha Banerjee)
Judicial Member