

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00266/2019

Date of Order: This, the 20th day of August 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

Shri Sudhan Ranjan Bhowmik
S/o. Late Sashi Mohan Bhowmik
R/o. Pragati Nagar, Lalgenesh, Guwahati
Dist. Kamrup (M), Assam
(Retired Officer Surveyor at Survey of India, Assam and Nagaland
GDC, Nidhi Bhawan, Lalmati, Guwahati PIN – 781029

.....Applicant

By Advocate: Sri R. Sarma
Sri R. J. Sharma

-AND-

1. Union of India
Represented by its Secretary
Department of Science and Technology
Ministry of Science and Technology
Technology Bhawan, New Mehruli Road
New Delhi – 110016.
2. The Surveyor General of India
Post Box No. 37
Derhadun, 248001
Uttarakhand, India.
3. The Senior Accounts Officer
Regional Pay & Accounts Office
Survey of India, 15 Wood Street
Kolkata, West Bengal
PIN – 700016.
4. The Director, Assam & Nagaland GDC, Nidhi Bhawan
2nd Floor, Lalmati, Guwahati, Assam, PIN – 781029.

5. The Establishment & Accounts Officer
Assam & Nagaland GDC
Survey of India, Nidhi Bhawan, 2nd Floor
Lalmati, Guwahati, Assam
PIN – 781029.
6. The Secretary
Ministry of Finance
Department of Expenditure
North Block, New Delhi – 110001.

.....Respondents

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

Being aggrieved with order/letter dated 01.01.2019; the applicant approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:

- “8.(a) Set aside the order/letter dated 1-1-2019 under memo No. RPAO/SRV/PEN/2018-19/1837
- (b) The recovered amount of Rs. 1, 63,610/- (rupees one lakh sixty three thousand six hundred ten only) may be refunded to the applicant.
- (c) The respondent may be directed to calculate and pay the pension amount to the applicant as per the basic pay @ Rs. 66, 000/- (Rupees sixty six thousand only) and pay the remaining amount to the applicant after such re-calculation
- (d) direct the respondent to pay compensation @ Rs. 10, 00,000/- (rupees ten lakhs only) for mental agony and suffering of the applicant.

2. Sri R. Sarma, learned counsel appearing on behalf of the applicant submits that the applicant, who joined in service under the

respondent department in the year 1983, was retired from service on superannuation on 28.02.2019. According to the learned counsel, the basic grievance of the applicant for filing the instant petition is that the respondents have illegally recovered an amount of Rs. 1, 63,610/- after retirement from his gratuity and reduced his basic pay from Rs. 66, 000/- to Rs. 64, 100/- in the last month of his service without issuing any show cause notice and consequently calculated his pension on the basis of that illegally fixed basic pay.

3. Learned counsel fairly contends that the case of the applicant is squarely covered with the decision rendered by the Hon'ble Supreme Court in the case of **State of Punjab & Others vs Rafiq Masih (White Washer) etc., (2015) 4 SCC 334** wherein it was held that – “recovery of excess payments discovered after five years would be iniquitous and arbitrary, and as such, violative of Article 14”.

4. In view of the above decision rendered by the Hon'ble Apex Court, the intervention of this court is warranted. Moreover, the learned counsel fairly submitted that the applicant will be happy and satisfied if the case of the applicant is decided in the light of the judgment rendered by the Hon'ble Supreme Court in the case of **Rafiq Masih (White Washer) (supra)**.

5. In view of the above, without going into the merit of the case as well as without issuing notice to the respondents, I dispose of the O.A. with the direction to the respondents to consider the case of the applicant in the light of decision of Hon'ble Supreme Court in the case of **Rafiq Masih (White Washer) (supra)** within a period of three months from the date of receipt copy of this order.

6. No order as to costs.

(MANJULA DAS)
MEMBER (J)

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