

Ct. 05
Item No.01
27.11.2020
(suvendu)

**WPA 7280 of 2020
With
CAN 1 OF 2020**

(Via Video Conference)

**Subir Kumar Bose
Vs.
State of West Bengal & Ors.**

Mr. Ekramul Bari
Ms. Tanuja Basak
.....for the Petitioner

Mr. Supriya Chattopadhyay
Ms. Iti Dutta
.....for the State

The writ petitioner retired from the concerned school as an Assistant Teacher on 29th February, 2020. The grievance of the writ petitioner is that after retirement, the retirement benefits of the petitioner was not released by the concerned authorities.

Learned counsel appearing for the petitioner submits that the pension papers were submitted with the office of the District Inspector of Schools (SE) by the school authority and the Deputy Director of Pension and Provident Fund and Group Insurance (respondent no.7) informed the school authority about certain irregularity in the pension file of the petitioner. Counsel places a document dated 27th July, 2019 issued by the Joint

Director of Accounts relating to certain clarifications sought in relation to the petitioner's retirement benefits. Counsel submits that these are in the nature of recovery of overdrawn scale of pay which is now a settled issue by various judgments of the Supreme Court as well as this Court.

Learned counsel appearing for the State submits that the petitioner is entitled to whatever is legal due to the petitioner and places judgment of a Division Bench of this Court reported in 2014(3) CLJ (Cal) 271 [The State of West Bengal Vs. Smt. Ila Giri].

On considering the submissions of learned counsel appearing for the parties, the document placed by counsel for the petitioner dated 27th July, 2019 makes it clear that amounts indicated therein have been stated as "overdrawn" amounts which are to be deposited with the Government. Paragraph 18 of State of Punjab & Others Vs. Rafiq Masih (white Washer) & Others reported in (2015) 4 SCC 334 makes it clear that overdrawn amount which are mistakenly been made by the employer cannot be recovered under certain circumstances. The present case falls under the circumstances mentioned in paragraph 18 of Rafiq Masih. However, the petitioner also cannot be entitled to payments which are not legally due to the petitioner. The Director of Pension and Provident Fund and Group Insurance, Government of West Bengal as well as Deputy Director of Pension and Provident Fund

and Group Insurance, Government of West Bengal, being the respondent nos. 6 and 7, are accordingly directed to look into the post-retiral financial entitlement of the petitioner and released the admissible amount to the petitioner within a period of six weeks from date.

WPA 7280 of 2020 and CAN 1 of 2020 are disposed of.

(Moushumi Bhattacharya, J.)