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21.02.2020.
d.p.

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 486 of 2020

Krishna Bahadur Chhetri
-versus
The State of West Bengal & Ors.

Mr. Anirban Chakraborty.
...For the Petitioner.

Mr. Subir Kumar Saha,
Mr. Ankan Mitra.
...For the State.

The petitioner was a Primary School Teacher. He retired from service on 02.04.2009. The Pension Payment Order was issued by the respondent Authorities on 05.10.2016. Certain amount was deducted on account of alleged overdrawal. Being aggrieved, the petitioner has approached this Court by way of the present writ petition.

I have heard learned counsel for the parties and considered the orders passed by the Hon'ble Supreme Court as well as this court on similar facts.

The same is impermissible in law in view of the order passed by the Hon'ble Supreme Court in the matter of State of Punjab & Ors. –vs- Rafiq Masih (White Washer) & Ors. reported in (2015) 4 SCC 334.

The action of the respondent in recovery of the excess amount, which was allegedly paid erroneously, is absolutely contrary to the order passed by the Hon'ble Supreme Court of India in the matter of Rafiq Masih (supra).

In the said order, the Supreme Court specifically laid down the instances where recovery by the employers would be impermissible in law. It says that recovery from the retired employees is impermissible.

In the instant case, the petitioner a retired teacher will be entitled to the relief as granted by the Hon'ble Supreme Court as he retired from service long ago. The recovery is against the letter and spirit of the order that has been passed by the Supreme Court.

In view of the above, the impugned order seeking recovery of the overdrawn amount is liable to be set aside and, is accordingly, set aside.

The Director of Pension, Provident Fund and Group Insurance and the concerned Treasury Officer are directed to refund the amount, which has been recovered on account of excess payment from the petitioner within a period of eight weeks from the date of communication of this order.

The concerned Treasury Officer is directed to release the deducted amount to the petitioner along with interest at the rate of 6 per cent per annum with effect from the date of issuance of PPO. Such payment is to be made to the petitioner within a period of 8 weeks from the date of communication of this order.

Since no affidavit-in-opposition has been invited, the allegations contained in the writ petition are deemed not to be admitted.

W.P.A. 486 of 2020 is disposed of.

There will, however, be no order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)