

15.03.2021.
Item no. 85.
Court No.13
pk

**W.P.A. No. 3554 of 2021
(Through Video Conference)**

**Sri Naba Kumar Ghosh
Versus
The Union of India & Ors.**

Mr. Manas Kumar Ghosh,
Ms. Susmita Dey (Basu),
Mr. Arabinda Maji.

...For the petitioner.

Mr. Ajit Choubay,
Mr. Madhu Jana.

...For the respondents.

The writ petitioner superannuated on 31.12.2004 from the post of Fitter General Mechanic (HS-II). He claims that the benefits of the 7th Pay Commission have not been given to him. He is getting Rs.15,250/- as pension in stead of Rs.21,483/-. He further submits that against alleged excess payment made to him, the defence authorities have instructed to his banker, namely, PNB to recover the same. A representation in this regard has been made to the respondents on 21st March, 2020 which remains unconsidered.

Counsel for the petitioner submits that the petitioner's claim ought to be considered in terms of the Memorandum of Ministry of Finance, Department of Expenditure, Government of India being Annexure P-2 to the writ petition.

Recovery according to counsel for the petitioner is impressible in view of paragraph 18 of the decision

of the Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masih (white washer) and others reported in (2015) 4 SCC 334.**

In those circumstances, the respondent nos. 3 and 4 shall consider the petitioner's representation in accordance with law and also in the light of the Office Memorandum dated 1st March, 2004 issued by the Ministry of Finance, Department of Expenditure, Government of India and also consider the judgement passed by the Hon'ble Supreme Court in Rafiq Masih decision (supra) within a period of four months from the date of communication of a copy of this order.

The respondent nos. 3 and 4 shall pass suitable orders and the same may be communicated to the petitioner within fifteen days thereof.

With the aforesaid directions, the instant writ petition is disposed of.

No order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)