

26.03.2021
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W.P.A. 3698 of 2020

Anita Chakraborty
Vs.
State of West Bengal & Ors.

Ms. Sanchayita De ... for the Petitioner.

1. Affidavit of service filed in Court is kept with the record.

2. This is an application under Article 226 of the Constitution of India, wherein the petitioner is aggrieved by the inaction on the part of the respondent authorities in repaying the alleged overdrawing amount along with interest on the delayed disbursement of the pensionary benefits of her husband.

3. In the present case, the writ petitioner is aggrieved by the order of deduction of the overdrawn amount of a sum of **Rs.49,670/-** after her husband's retirement. The petitioner's husband was an Assistant Teacher who retired from service on **31.01.1998** and died on 13.02.2017 and the pension was paid by the authorities after deducting the aforesaid amount as overdrawn amount.

4. Counsel on behalf of the petitioner has submitted that the petitioner was neither given any notice of the alleged overdrawing amount nor was given any opportunity to explain such disbursement prior to direct recovery of the same from the pensionary benefits and such abrupt and whimsical action of the respondents is blatantly derogative of the principles of natural justice.

5. The issues arising in the above writ petition have been discussed and decided by an order dated December 3, 2019 passed by me in **W.P.A. 745 of 2019 (Amal Kumar Chaudhuri vs. State of West Bengal & Ors.)**.

6. In view of the above, it is clear that a writ of mandamus lies in the present facts and circumstances of this case as the overdrawn amount that has been deducted is without any basis in law.

7. I, accordingly, direct the respondent authorities to release the amount of **Rs.49,670/-** to the petitioner along with interest at the rate of 8% per annum with effect from the date of issuance of the pension payment order. Such payment is to be made to the petitioner within a period of six weeks from the date of communication of this order.

8. The petitioner has undertaken before this Court that she shall not claim any further benefits on account of her husband's pension that is being paid to her based on the last drawn pay as per the pension payment order.

9. With these observations, this writ petition is disposed of.

10. Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

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

(Shekhar B. Saraf, J.)