

Ct. 05
Item No.39
07.12.2021
(suvendu)

WPA 18826 of 2021

[Via Video Conference]

**Basanta Kumar Pramanik
Vs.
The State of West Bengal & Ors.**

Mr. Ranajit Chatterjee
Mr. Aniruddha Mitra
.....for the petitioner

Ms. Chama Mukherjee
Mr. Gourav Das
.....for the State

Ms. Lina Majumder
.....for the University

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

The name of learned counsel appearing for the University should be corrected in the order dated 1st December, 2021.

The petitioner seeks a direction on the State-respondents to refund an amount of Rs. 4,23,112/- which was deducted from the petitioner's retirement benefits by orders of 2017 including of 6th January, 2017. By the said order, the Registrar of the concerned University directed recovery of Rs. 4.23 lakhs from the retirement benefits of the petitioner.

The State is represented.

The facts of the case should first be clarified. The petitioner was appointed as a Fieldman on 5th November, 1979 and was confirmed on 1st August, 1989. The petitioner received increments and further promotions thereafter in 1999 and 2010. The petitioner retired from service on 31st December, 2016 while pay re-fixation was made after retirement on 6th January, 2017. The Pension Payment Order was issued on 2nd February, 2017 for recovery of Rs. 4.23 lakhs from the retirement benefits of the petitioner.

The facts indicate that the petitioner is squarely covered by State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors., (2015) 4 SCC 334, paragraph 18 thereof lays down the situations where recoveries by the employers would not be legally permissible. Sub-paragraphs (i) and (ii) of paragraph 18 include situations where the employees belong to Group -C and Group -D and the recovery has either been made from employees who have already retired or are due to retire within one year from the date of the order of the recovery.

The petitioner is admittedly a Group –C employee and the recovery was sought to be made after the petitioner retired on 31st December, 2016.

In view of the above, the impugned orders of recovery of Rs. 4.23 lakhs from the retirement benefits of the petitioner are set aside. These orders would be of 6th January, 2017 and 2nd February, 2017. The sum of Rs. 4,23,112/- is directed to be refunded by the concerned authorities within four weeks from today.

WPA 18826 of 2021 is disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)