

115 22.02.2021
Sc

***CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION
(Via Video Conference)***

W.P.A. 422 of 2021

Sabita Misra
Vs.
The State of West Bengal & Ors.

Mr. Biswajit Mal

... for the Petitioner.

Mr. Subir Kumar Saha

Mr. Momenur Rahman.

... for the State.

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 overdrawal amount along with interest on the delayed disbursement of the pensionary benefits of the petitioner.

3. In the present case, the writ petitioner is aggrieved by the order of deduction of the overdrawn amount of a sum of **Rs.90,619/-** after her husband's retirement. The petitioner's husband was an Assistant Teacher who retired from service on **31.01.2001** and died on 09.01.2015 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 overdrawal 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.90,619/-** 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 pension that is being paid to her based on the last drawn pay as per the pension payment order dated **31.03.2004**.

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. There will be no order as to costs.

12. 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.)