

23rd February, 2022
(D/L No.20)
(SKB)

WPA 1474 of 2022
(Via Video Conference)

Biswanath Chattopadhyay
Versus
The State of West Bengal and others

Mr. Ranjit Chatterjee,
Mr. Aniruddha Mitra
... for the petitioner.

Ms. Tapati Samanta
...for the State.

The affidavit of service is taken on record. Despite being served several times, the University is not represented. The State is represented.

The petitioner has challenged an order passed by the concerned University dated 8th February, 2017 by which the petitioner's pay has been refixed and an excess amount drawn by the petitioner amounting to Rs.3,73,821/- arising out of the excess pay has been recovered from the retirement benefits of the petitioner.

The petitioner retired from the University on 31st January, 2017 as a Senior Field Assistant attached to the Directorate of Farms.

Upon hearing learned counsel appearing for the parties, it appears that the University is trying to shift its responsibility on the State and vice versa. The impugned order suffers from breach of the principles of natural justice since the petitioner has been visited with

extreme civil consequences without an opportunity being given to him to present his case. The impugned order refers to several related documents and facts which should have been made available to the petitioner before re-fixation of his pay. In any event, the petitioner's case is covered by several Clauses of Paragraph – 18 of *State of Punjab and Others Vs. Rafiq Masih (White Washer) And Others* reported in (2015) 4 SCC 344.

By reason of the above, the impugned order dated 8th February, 2017 is set aside.

The concerned respondents are directed to give a hearing to the petitioner as to the re-fixation of pay and refund the amount of Rs.3,73,821/- within a period of four weeks from the date of communication of this order.

In the meantime, the petitioner shall also be entitled to receive the pension in the revised pay scale, which he would have received before the re-fixation of pay.

The petitioner shall also be paid his arrears salary (in the revised pay scale) in the promotional post of Senior Field Assistant with effect from 1st January, 2012, till his retirement on 31st January, 2017 in terms of the order dated 19th August, 2014.

W.P.A.1474 of 2022 is disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)