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28.04.2022
d.p.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 3079 of 2022

Uttam Ghosh

v.

The State of West Bengal & Ors.

Ms. Tuhina Ghosh

...for the Petitioner

Mr. Avijit Sarkar

... for the State respondents.

The father of the petitioner was an assistant teacher who retired from service on attaining his normal age on superannuation on 30th September, 1993. Pension Payment Order was issued in favour of the teacher on 28th September, 2000. Certain sum was deducted from the terminal benefit of the teacher on account alleged overdrawal. The father of the petitioner accepted the payment that was made to him without raising any objection.

The teacher expired on 24th July, 2011. The petitioner filed writ application in February 2022 praying for a direction upon the respondent authorities to refund the amount which was recovered from the terminal benefit of the teacher on account of excess payment.

It appears from records that the teacher accepted the amount that was paid after deducting the amount which was drawn by him in excess to the amount which ought to have been paid to him. The teacher was alive for quite some

time after receiving the payment but never raised any issue with regard to the same.

The conduct of the teacher implies that he had no objection to the deduction being made and he further waved his right to raise objection at a future date. The prayer of the son of the deceased teacher after lapse of a considerable period of time cannot be accepted by the Court.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)