

09 26.9.2022
Sc Ct. no.22

WPA 18493 OF 2022

Ashok Kumar Chakraborty

Vs.

The State of West Bengal & Ors.

Mr. Sarwar Jahan
Ms. Pritikana Gantait
Mr. Sudipta Maiti.

....For the Petitioner

Mr. Ambarnath Banerjee
Mr. Somnath Mukhopadhyay.

....For the State

Affidavit-of-service filed in Court, is taken on record.

The petitioner is a retired Headmaster at **Dori Ayodhya K. C. High School**. He retired on and from July 31, 2021. The pension and gratuity of the petitioner were being withheld as would be evident from **Annexure-P9** to the writ petition. The ground for withholding was overdrawal of an amount of Rs.1596/-(Rupees one thousand five hundred ninety-six only). The said document, **Annexure-P9** to the writ petition, also recorded that the overdrawal amount was also paid by the petitioner under **T.R. Challan No.00002 dated January 10, 2022**. The petitioner through this writ petition claims his pension and gratuity which were illegally and wrongfully withheld by the respondent authorities.

It is the settled law that even if an amount was paid to an employee mistakenly or otherwise by the employer, overdrawal of such an amount cannot be claimed back from the account of the employee. The concerned employee cannot be held liable for this.

Be that as it may, considering the submissions made on behalf of the appearing parties and upon perusal of the materials-on-record, the respondent no.6 is directed forthwith to settle the account of the petitioner in every respect on account of his pension and allied retiral benefits positively within a period of two weeks from the date of communication of this order. The respondent no. 6 then shall send his calculation-sheet and all allied pension papers to the respondent no.3, who shall immediately issue the ***Pension Payment Order*** in favour of the petitioner positively within a further period of two weeks from the date of receiving of such calculation and recommendation from the respondent no.6.

The directions, made above, are mandatory and peremptory.

On the above terms this writ petition, ***WPA 18493 of 2022*** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)