

Ct. 05
Item No.18
19.01.2022
(suvendu)

WPA 20671 of 2021

[Via Video Conference]

**Kalipada Roy
Vs.
State of West Bengal & Ors.**

Mr. Ranajit Chatterjee
Mr. Aniruddha Mitra

.....for the petitioner

Ms. Lina Majumder
Mr. Arijit Dey

.....for the University

Mr. Pinaki Dhole
Mr. Avishek Prasad
Mr. Bipin Ghosh

.....for the State

The affidavit of service is taken on record.

The petitioner has challenged an order passed by the concerned University dated 10th August, 2020 by which the petitioner's pay has been refixed and an excess amount drawn by the petitioner amounting to Rs. 452007/- arising out of the excess pay has been recovered from the retirement benefits of the petitioner.

The petitioner retired from the University on 30th April, 2020 as a Senior Field Assistant attached to the Directorate of Farms.

The State and the University are represented.

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 334.

By reason of the above, the impugned order dated 10th August, 2020 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. 452007/- 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, which he was receiving before the re-fixation of pay.

WPA 20671 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.)