

20.04.2022
SL No. 5
Court No. 24
(P.M)

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 20730 of 2021

**Rekha Sen (De)
Vs
The State of West Bengal & Ors.**

Mr. Tulsi Das Maiti,
Mr. Pradip Kumar Ghosh
... for the petitioner

Mr. Himadri Sekhar Chakraborty,
Mr. Rakesh Singh
... for the State

The petitioner retired as a primary school teacher on attaining his normal age of superannuation on 31st July, 2021. He alleges that his terminal benefits have not been disbursed in his favour.

Though the petitioner has not been formally intimated the reason for non-disbursal of the terminal benefits but from the report which has been filed by the State respondents it appears that the same was not disbursed in favour of the petitioner allegedly on the ground that there was a sum of Rs. 92,291/- only paid to the petitioner as excess amount.

It has been mentioned in the report that after deposition of the aforesaid amount the pension file of

the petitioner will be processed and transmitted to the next level after due checking. The pension file of the petitioner is pending at the petitioner's end due to non-refunding of the amount which was overdrawn by him.

The report further mentions that the petitioner was allowed ten years benefit on 3rd April, 2009 on completion of ten years of continuous service under the career advancement scheme. The petitioner was thereafter paid one additional increment on 1st July, 2009 as periodical yearly increment.

As per G.O. No. 181-SE(B) dated 8th October, 2009 in case the employee opts for the benefit on the date of entitlement he will get one increment on that date, but he will not be entitled to the next annual increment on the next 1st July of the year unless he completes six months of service.

In the present case, the petitioner was entitled to the career advancement scheme benefit on 3rd April, 2009 which was accordingly paid to him and thereafter again on 1st July, 2009 the petitioner was paid the periodical yearly increment. The same was impermissible in terms of the aforesaid Government Order dated 8th October, 2009.

The report further mentions that the service book of the petitioner records that the sum of Rs.

1268/- which was paid to the petitioner as excess drawal amount for the period from 3rd April, 2009 to 30th June, 2009 has been deducted from the monthly salary of June 2013 as per the undertaking given by the petitioner.

According to the respondents as the petitioner enjoyed two successive increments within a period of three months, accordingly, the petitioner is bound to refund the overdrawal amount enjoyed by him.

The Court cannot accept the aforesaid contention of the respondent authorities. The report as well as the service book of the petitioner that has been annexed to the writ petition clearly mentions that the petitioner already refunded the amount which was received by him in excess for the period 3rd April, 2009 to 30th June, 2009 from his monthly salary bill of June, 2013.

After the excess amount has been deducted from the salary bill of the petitioner, the question of any amount overdrawn by the petitioner cannot arise.

As per the Government Order the employee will be entitled to receive his increment on and from 1st July of the year. The petitioner accepted the periodical yearly increment as well as the additional increment under the career advancement scheme on and from

1st July, 2009 and not prior thereto. The same is permissible as per the aforesaid Government Order.

Accordingly, the reason assigned for non-disbursal of the terminal benefits of the petitioner cannot be sustained in the eye of law.

The District Inspector of Schools (Primary Education) Paschim Medinipur is directed to take immediate steps for processing the pension file of the petitioner at the earliest.

Till a decision is taken with regard to the payment of the final terminal benefits of the petitioner, the District Inspector of Schools shall take steps for disbursing provisional pension to the petitioner within a period of four weeks from the date of communication of a copy of this order.

The District Inspector of Schools shall take all necessary steps to ensure that the final pension is disbursed in favour of the petitioner latest within a period of six months from the date of communication of a copy of this order.

The writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)