

09.06.2022
b.das
Item No.112

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

**WPA No. 1201 of 2022
John Berchmans Thapa
Versus
The State of West Bengal & Ors.**

Mr. Deborshi Dhar ...for the Petitioner

Mr. Subir Kumar Saha ...for the State

Affidavit of service filed in Court today is taken on record.

The petitioner is aggrieved by the inaction on the part of the respondent authority in repaying the alleged overdrawal amount along with interest. The petitioner's grievance is that the concerned authority alleged overdrawal of certain amount by the petitioner towards increments and fixation of scale of pay and directed the petitioner to deposit the overdrawn amount for disbursement of his pensionary benefits. No notice was served upon the petitioner prior to calculation of such amount and the petitioner was not given any opportunity to explain his contention before such order was passed.

The issue in the writ petition has been decided by a co-ordinate Bench of this Court in an order passed on December 03, 2019 in WPA No. 745 of 2019.

In view of the above, it is concluded that a writ of mandamus lies in the present facts and circumstances of

the case as the overdrawn amount has been deducted without giving an opportunity of hearing to the petitioner and has no legal basis.

Accordingly, the respondent authorities are directed to release the amount of Rs.5,21,000/- to the petitioner along with interest thereon @8% per annum with effect from the date of issuance of the pension payment order. Such payment should be made to the petitioner within one month from the date of communication of this order.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)