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Ct. 18
14.07.2023

W.P.A. 557 of 2021

**Minati Mandal
Vs.
The State of West Bengal & Ors.**

Mr. Santosh Kr. Chakrabarti ... For the petitioner.

Mr. Mrinal Kanti Ghosh ... For the State.

The petitioner was an Assistant Teacher of Phandar Gadadhar Bidyapith, a Junior High School, District – Paschim Medinipur, on superannuation, she retired from her said service on January 31, 2020.

The petitioner is complaining delay in disbursement of her retiral benefits.

To resolve the issue, the District Inspector of Schools (SE), Paschim Medinipur, the respondent no. 4 herein was directed to file a report, such report was filed, exception thereto is filed by the petitioner today, let it be kept with the record.

It appears from the said report that due to wrong pay fixation, the petitioner had received an excess amount of Rs. 9,29,066/-.

The respondent no. 4 has instructed the petitioner to take steps for refund of the said amount as the condition precedent for disbursement of her said retiral benefits.

In view of the proposition of law laid down by the Hon'ble Supreme Court in the case of *State of Punjab & Ors. vs. Rafiq Masih (White Washer) & Ors.*, reported in (2015) 4 SCC 334, the instruction of refund of the said excess amount is not sustainable.

Mr. Ghosh, learned advocate for the State-respondents on the basis of the e-Pension report submits that since the refund of the

said excess amount was demanded one year before the retirement of the petitioner, the proposition of law laid down in the aforementioned decision of the Supreme Court is not applicable in the present case.

On perusal of the e-pension report, it appears that the School Authority though was intimated about the excess payment one year prior to the retirement of the petitioner but there is nothing in the said report to suggest that the School Authority communicated the same to the petitioner, rather it appears from the said report that the wrong pay fixation was informed to the petitioner on February 06, 2020 i.e. after her retirement.

In view of such position of the matter, I am unable to accept the said submission of Mr. Ghosh. The ratio of law laid down in the aforementioned decision squarely applies to the facts and circumstances of the case.

The petitioner, therefore, is not obliged to refund the said excess amount of Rs. 9,29,066/- to get her pension and other retiral benefits disbursed but for the same, the pay scale of the petitioner recorded in her service book is required to be rectified as she is entitled to pension on the basis of her admissible pay scale.

The respondent no. 4, for carrying out such rectification, is directed to send the service book of the petitioner to the school authority immediately.

The school authority shall carry out the necessary correction in the said service book and shall return it to the respondent no. 4 within a week from date of receipt of it.

The respondent no. 4, upon receipt of the said rectified service book, shall send the pension papers to the Pension Sanctioning

Authority and if the said papers are found to be in order, the said authority shall disburse the pension and other retiral benefits to the petitioner within four weeks from the date of receipt of the said papers.

W.P.A. 557 of 2021 is disposed with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of the Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)