

13-12-2023
ct no. 13
Sl. 31
sp

WPA 1306 of 2021

Sri Durgapada Sanyal
-Versus-

The State of West Bengal & Ors.

**Mr. Manas Kumar Ghosh,
Ms. Susmita Dey (Basu)**

.... For the petitioner

1. Affidavit of service filed in Court today is taken on record.
2. Despite service of notice, the respondents are not represented.
3. The petitioner retired from service of the respondent no.3 West Bengal State Minor Irrigation Corporation Limited on January 31, 2016 as a Work Assistance.
4. A recovery of a sum of Rs. 2,74,842/- was effected from his dues. The alleged excess amounts were paid under the salaries from November, 2019 to January, 2020.
5. In the decision of the Supreme Court in the case of ***State of Punjab Vs. Rafiq Masih*** reported in ***(2015) 4 SCC 334***, it was held that recovery on account of an employee's service cannot be made if such payment has

been made without any fault or omission or act of the part of the employee concerned.

6. For the reasons stated above, the recovery made by the Respondents in the case of the petitioner is quashed and set aside. The respondent Corporation shall pay Rs. 2,74,642/- with interest @ 8% per annum on and from the date of retirement till the date of actual payment.
7. With the aforesaid observations, the instant writ petition is disposed of.
8. There shall be no order as to costs.
9. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)