

31.08.2023
Item No.15
Court No.18
AJ.

W.P.A. 4553 of 2022

Indra Mani Shukla
-Vs-
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Ms. Tanuja Basak.
... for the petitioner.

Mr. Supriyo Chattopadhyay, A.G.P.,
Ms. Iti Dutta.
... for the State.

Ms. Koyeli Bhattacharyya.
....for the WBBSE.

Mr. Sakti Pada Jana.
....for the respondent nos. 4 & 5.

The petitioner was an Assistant Teacher of Gyan Bharati Vidyapith, Kolkata, on superannuation, he has retired from his said service on September 19, 2019.

The Secretary of the Managing Committee of the said school by a letter dated September 11, 2019 informed the petitioner that as he has a post graduate degree in an irrelevant subject, is not entitled to post graduate scale of pay but he has enjoyed such scale of pay for the period from April 01, 2003 to November, 2018, as such he is required to refund the overdrawn amount.

The petitioner in the instant writ petition, has challenged the said communication.

It is not in dispute that the petitioner has the Master's degree in an irrelevant subject and on the strength of the said degree, though not entitled, had enjoyed the post graduate scale of pay for the aforementioned period but it is now settled position of law that the petitioner is not obliged to

refund the overdrawn amount received by him on account of such wrong fixation of pay.

Upon detection of the said error, his pay scale was re-fixed on and from December, 2018 and thereafter the petitioner, till his retirement, had received the salary at the said re-fixed scale of pay.

In view of the above, the advice of the school authority to refund the overdrawn amount under T.R. Form No. 7 is not required to be complied with.

However, the petitioner is entitled to pension at the rate commensurate with his admissible scale of pay. The School authority is directed to send the pension papers of the petitioner to the District Inspector of Schools (S.E.), Kolkata, the respondent no.3 herein within three weeks from date and the said respondent, in turn, shall take expeditious steps for release of the said pension.

W.P.A. 4553 of 2022 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)