

01.08.2023
Item No.18
Court No.18
(P. Jana)

W.P.A. 10795 of 2023

Rabindra Nath Sarkar
-Vs-
The State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das,
.....for the petitioner.

Mr. Bhaskar Prasad Vaisya, A.G.P.,
Mr. Mrinal Kanti Ghosh,
.....for the State.

The petitioner is an Assistant Teacher of Palpur Adarsha Vidyapith High School.

The petitioner is challenging the Memo bearing No: GA/02 dated January 05, 2023 issued by the District Inspector of Schools (SE), District: 24 Parganas (South), the respondent no. 3 herein, whereby after two successive corrections the basic pay of the petitioner has been fixed at Rs. 19040/-.

The respondent no. 3 was directed to file a report, Mr. Vaisya, learned Additional Government Pleader, files such report, let it be kept with the record.

Mr. Jana, learned counsel for the petitioner, in his usual fairness submits that he has gone through the said report and is satisfied that the correction carried out in fixing the basic pay of the petitioner by the impugned memo is correct.

He however prays that the authorities be restrained from recovering any amount paid in excess due to the wrong calculation of the basic pay.

In view of the aforesaid, the respondent no. 3, is directed to re-fix the pay scale of the petitioner on

the basic pay of Rs. 19040/- with effect from July 01, 2016 within four weeks from date.

In view of the proposition of law laid down by the Hon'ble Supreme Court in the case of **STATE OF PUNJAB AND OTHERS -Versus- RAFIQ MASIH (WHITE WASHER) AND OTHERS reported in (2015) 4 SCC 334**, the authorities are not entitled to recover the excess amount paid to the petitioner on account of wrong pay fixation as he is going to retire within one year from date.

WPA 10795 of 2023 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 of all requisite formalities.

(Biswajit Basu, J.)