

24.08.2023
Item No.11
Court No.18
AJ.

W.P.A. 24056 of 2022

Shubhendu Mukherjee
-Vs-
The State of West Bengal & Ors.

Mr. Ramkrishna Bhattacharyya,
Mr. Kaushik Chowdhury,
Ms. Bursa Khatun,
Mr. Gourhari Das.
.....for the petitioner.

Md. Mansoor Alam.
.....for the State.

A report bearing Memo No.888 dated August 01, 2023 filed by Mr. Alam, learned Advocate for the State respondents be kept with the record.

The petitioner was the Headmaster of Raiganj High School (H.S.). On superannuation, he retired from his said service on November 30, 2020.

Immediately after retirement, the petitioner was informed that he has overdrawn a sum of Rs.5,35,101/- due to wrong pay fixation. The deduction of the said amount from the gratuity amount of the petitioner was proposed and the petitioner was compelled to give consent to the said proposal by affirming an affidavit.

The petitioner is praying refund of the said amount with interest and questioning the

legality and propriety of the refixation of his pay scale after retirement.

In view of the proposition of law laid down by the Hon'ble Supreme Court in the decisions in the case of **STATE OF PUNJAB AND OTHERS VS. RAFIQ MASIH (WHITE WASHER) ETC.** reported in **(2015) 4 SCC 334** and in the case of **THOMAS DANIEL –VS- STATE OF KERALA & ORS.** reported in **AIR (2022) SC (CIVIL) 1607**, the deduction of the alleged overdrawn amount from the retiral benefit is not warranted as such the concerned authority is directed to refund the said amount with the interest @8% per annum from the date of realization of such amount till the date of payment of it to the petitioner.

So far as the issue of refixation of the pay scale of the petitioner after his retirement, the petitioner is granted liberty to file an appropriate representation before the District Inspector of Schools (S.E.), District : Uttar Dinajpur, the respondent no.4 herein within two weeks from date, if such a representation is filed, the said respondent shall consider and dispose it of in accordance with law within a period of six weeks from the date of filing of such representation after giving the petitioner and/or his agent an opportunity of hearing.

In the event, the petitioner is successful in demonstrating that refixation of his scale of pay was erroneous, the respondent no.4 shall take appropriate steps to issue revised pension payment order and to release the arrear pension.

W.P.A. 24056 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.)