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10.1.2023
Court. No. 19
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WPA 28270 of 2022

**Ratan Kumar Dey
Vs.
The State of West Bengal & Ors.**

**Mr. Razzak Hossain
..for the petitioner**

**Mr. Tarun Kumar Ghosh
Ms. Subhra Nag
..for the State**

This is not a simple case of refund of an amount allegedly deducted by the authority on account of withdrawal. In this case, the petitioner voluntarily deposited Rs.2,21,082/- which was allegedly overdrawn on account of House Rent Allowance.

According to the petitioner, such deposit was made as per the direction of the respondent authorities. The Pension Payment Order was not issued by the authority and the pension along with retirement benefits were being withheld, until the money was deposited.

The petitioner voluntarily deposited the said amount and it is not a case where the authorities had on their own deducted the overdrawn amount from the retirement benefits of the employee. When there is a voluntary action on the part of the employee by depositing the alleged amount which was overdrawn, the Writ Court cannot direct refund of the same. Such deposit was made on September 1, 2022 and the

Pension Payment Order was issued on December 3, 2019.

The petitioner has failed to demonstrate before the Court that the authorities had asked him to return the amount of Rs.2,21,082/- at the fag end of his career or at the time of superannuation with an intimation that the Pension Payment Order would not be issued if such payment was not made. There is nothing on record to show that the Pension Payment Order of the petitioner was withheld only because of non deposit of the excess amount overdrawn by the petitioner.

Under such circumstances, this writ petition cannot be entertained and the same is disposed of. The record reveals that the petitioner himself had deposited the amount from TR Form No. 7 in the account of the Government of West Bengal. No notice or warning or intimation from the authority is available before the court.

Had it been a case when the authorities had withheld payment of the retirement benefits on the account of overdrawal or had independently deducted overdrawn amount from the retirement benefits, necessary orders could have been passed by this Court upon assessment of the facts. However, when there is a voluntary action on the part of petitioner by depositing the amount of Rs. 2,21,082/- , this Court is

of the view that the decisions of the ***Hon'ble Apex Court in the matters of Shyam Babu Verma & Ors. Vs. Union of India & Ors. reported in (1994) 2 SCC 521, Chandi Prasad Uniyal & Ors. Vs. State of Uttarakhand & Ors. reported in 2012 (8) SCC 417 and State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors. reported in (2015) 4 SCC 334,*** would not be applicable.

If in future the petitioner is able to produce any claim and/or direction of the employer to refund overdrawn amount before his pensionery benefits could be disbursed, the petitioner may file a separate writ petition and the prayer for refund would be considered in accordance with law and on the basis of the records and facts.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are directed to act server copy of this order.

(Shampa Sarkar, J.)