

14 15.6.2023

Ct-01

MAT 97 of 2022

with

I.A No. CAN 2 of 2022

Krishna Sarkar Chaki

Vs.

The State of West Bengal & Ors.

ar

Mr. Ekramul Bari

Mr. Sanajit Basu

... For the Appellant

Mr. Subir Kumar Saha

Mr. Momenur Rahman

... For the Respondent

The only point is required to be decided whether the appellant is entitled to pension on the basis of pay fixation wrongly made by the employer during her employment. Admittedly, the appellant enjoyed the higher scale of pay, although the appellant was not entitled to such higher scale of pay. However, the appellant was not responsible for the benefit extended to her. In view of the judgment of the Hon'ble Supreme Court in ***Thomas Daniel Vs. State of Kerala & Ors., reported in 2022 SCC Online Sc 536*** the appellant enjoyed the higher scale of pay, wrongly paid, could not be recovered. However, this does not mean that the wrong fixation made with regard to his pay scale shall be considered for the purpose of pension.

In view of the above, we do not find any reason to interfere with the order passed by the learned Single Judge.

The appeal is accordingly disposed of by affirming the judgment of the learned Single Judge.

In view of disposal of the appeal, nothing remains to be decided in the application for stay being CAN 2 of 2022 and the same is accordingly

disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this court.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)