

20.02.2024.
Court No. 13
Item No. 136
ap

W.P.A. No. 3735 of 2023

Gita Bhaumik Pramanik
Versus
The State of West Bengal & Ors.

Mr. Soumya Majumdar,
Ms. Deblina Chattaraj.

...For the petitioner.

Mr. Santanu Kumar Mitra,
Mr. Shamim-ul Bari,

...For the State.

Mr. Kamal Mishra.

...For the DPSC, Purba Medinipur.

1. The petitioner is aggrieved by non-release of her terminal benefits. She superannuated from service as an Assistant Teacher under the District Primary School Council, Purba Medinipur on 31st May, 2021.
2. While processing the petitioner's terminal dues, the Director of Pension, Provident Fund and Group Insurance, West Bengal has raised an objection that the petitioner could not have been entitled to "A" Category Pay Scale since she did not possess the recognized training qualification.
3. The petitioner has a Bal Sebika Training Certificate. Admittedly, the said Certificate is not recognized as a Training Qualification for Assistant Teachers in Primary Section by the District Primary School Council, Purba Medinipur as well as West Bengal Board Primary Education.

4. In view of the delay in payment of her terminal benefits, the petitioner in desperation, on 5th January, 2022, informed the Authorities that any dues payable by her may be adjusted from her terminal dues and her pension may be released at the earliest.

5. A formal demand for refund of excess payment was made by the respondents in June, 2022. Thereafter on the petitioner's application for release of terminal benefits, a formal order dated 5th July, 2023 has been passed by the District Inspector of Schools (SE), Purba Medinipur.

6. This Court notes that but for the request for adjustment, the decision of the Hon'ble Supreme Court of India in the case of ***State of Punjab and Ors. v. Rafiq Masih (White Washer) & Ors.***, reported in ***(2015) 4 SCC 334*** would apply preventing the respondents from recovering any excess payment made to the petitioner.

7. This Court has carefully heard the argument of the learned Counsel for the petitioner and the respondents.

8. With a view to put an equitable end to the instant proceeding, this Court has enquired from the writ petitioner through her Counsel as to whether she is agreeable to refund 50% of the excess amount demanded by the respondents. The writ petitioner has so agreed.

9. Mr. Mitra, learned Counsel for the State opposes the refund by the petitioner to the extent of only 50%.

10. Considering the facts and circumstances of the case, this Court in exercise of extraordinary power under Article 226 of the Constitution of India directs the respondents to adjust 50% of the overdrawn amount claimed against her from her terminal benefits.

11. However, the Pension Payment Order of the petitioner shall be prepared on the basis of her last drawn Pay Scale as recalculated minus the “A” category pay scale from the date on which it is given for the first time till date of superannuation. The petitioner’s last drawn pay shall however include all revisions as per ROPAs from time to time and any increment and any other benefits minus “A” category Pay Scale.

12. It is submitted by Mr. Mitra, Counsel for the State that the petitioner’s salary has already been re-fixed on 9th February, 2022.

13. In that view of the matter, let a Pension Payment Order be issued by the Director of Pension, Provident Fund and Group Insurance, West Bengal as per the recalculated last drawn pay as done on 9th February, 2022 within a period of one month from date. All the balance terminal benefits payable to the petitioner

shall also be released to her within a period of one month from date.

14. With the aforesaid directions, the instant writ petition shall stand disposed of.

15. There will be no order as to costs.

16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)