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31.07.2024
d.p.

**In The High Court At Calcutta
Constitution Writ Jurisdiction
Appellate Side**

W.P.A. 4607 of 2024

**Smt. Arati Pan
-versus
The State of West Bengal & Ors.**

**Mr. Uttam Kumar De.
...For the Petitioner.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner retired from service as a primary school teacher on 30th April, 2010. Pension Payment Order was issued in his favour in December 2010 indicating that a sum of Rs.92,610/- has been deducted from his terminal benefit on account of overdrawal pay.

The petitioner submits that the said amount could not have been deducted after retirement.

In view of the order passed by the Hon'ble Supreme Court in the matter of **State of Punjab & Ors. -vs- Rafiq Masih (White Washer) & Ors. reported in (2015) 4 SCC 334** recovery from the retired employees or the employees who are due to retire within one year of the order of recovery is impermissible. Recovery from the employee where the excess payment has been made for a period in excess of five years before the order of recovery is issued, is also impermissible.

In line with the above ratio laid down by the Hon'ble Supreme Court, the recovery that has been

made from the terminal dues of the petitioner cannot be accepted by the Court.

The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the concerned District Inspector of Schools (P.E.) and the concerned Treasury Officer are directed to refund the deducted amount of Rs.92,610/- to the petitioner along with interest @8% with effect from the date of issuance of the Pension Payment Order within a period of ten weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)