

05.08.2024
Ct. No. 14
Sl. No.82
KB

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

W.P.A 6058 of 2024

**Rekha Ghosh
-versus-
The State of West Bengal & Ors.**

**Mr. Banshi Badan Maity
... For the petitioner.**

**Mr. Debasish Kar
...For the State.**

The petitioner is the widow of a deceased primary school teacher. She is aggrieved by the act of the respondent authority in deducting a sum of Rs.1,19,307/- from the terminal benefit of her husband on account of alleged overdrawal in pay.

The petitioner relies upon the order passed by the Hon'ble Supreme Court in the matter of ***Union of India & Ors. Versus Tarsem Singh; (2008) 8 SCC 648*** in support of the submission that the delay in approaching this Court for relief ought not to stand in the way of the petitioner from getting the relief as sought for.

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 laid down that recovery of excess payment from the terminal benefit of an employee is impermissible.

Admittedly in the present case, the alleged overdrawal amount has been deducted from the terminal benefit of the petitioner, and that too, after he retired from service.

The same is contrary to the law laid down by the Hon'ble Supreme Court.

It is also a fact that the employee concerned never challenged the action of the respondent authority in deducting the aforesaid amount. It is only after the death of the employee that the widow has come forward seeking refund. There has been enough delay on the part of the widow to approach the Court.

The instant writ petition is being entertained only because the action on the part of the authority in deducting the amount can be treated as a continuing wrong which is liable to be rectified by the Court. The concerned was legally entitled to receive the said money on his retirement.

In view of the above the instant writ petition is disposed of by directing the District Inspector of Schools (Primary Education), Purba Bardhaman and the Treasury Officer, Bardhaman-I to take steps for refund of the sum of Rs.1,19,307/- to the petitioner at the

earliest but positively within a period of twelve weeks from the date of communication of this order.

As the petitioner has approached this Court at a belated point of time, accordingly, her prayer for grant of interest is not accepted by the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on compliance of usual formalities.

(Amrita Sinha, J.)