

13.06.2024
Item No.32
RP
Ct. No.13

WPA 8600 of 2017
Abhoy Charan Mukhopadhyay
Vs.
State of West Bengal & Ors.

Mr. Falguni Bandyopadhyay
Ms. Riya Ballav
.....For Petitioner

Mr. Bhaskar Prasad Vasiya
Mr. Nilay Barman Mondal
.....For DPSC, South Parganas
Mr. Pinaki Dhole
Mr. Avishek Prasad
.....for State

1. Supplementary affidavit filed in Court today be kept on record.
2. The petitioner is aggrieved by the order dated 15th December, 2016 passed by the Joint Director, Pension, Provident Fund and Group Insurance, Government of West Bengal. By the impugned order the incorrect last drawn pay of Rs.6900/- has been corrected in PPO to Rs.6300/- and a sum of Rs.88327/- has been recovered from the petitioner as overdrawn amount.
3. Having regard to the decision of the Supreme Court passed in the case of State of Punjab vs. Rafiq Masih reported in (2014) 8 SSC 883 and Thomas Daniel vs. State of Kerala reported in 2022 SCC Online SC 536 wherein it is held that recovery of any amount overdrawn by any employee cannot be effected post retirement if the employee was not responsible for any such excess payment pursuant to any wrong fixation of pay.
4. In that view of the matter, this Court is of the view that the Joint Director, Pension, Provident Fund and

Group Insurance, Government of West Bengal has misdirected himself in applying the order passed in MAT 98 of 2015 by a Division Bench of this Court. The said decision has no manner of application in the facts of the case.

5. This Court therefore directs the Joint Director, Pension, Provident Fund and Group Insurance, Government of West Bengal to refund the said sum of Rs.88327/- to the writ petitioner together with interest at the rate of 6% per annum on and from the date of retirement of the petitioner i.e. 10th December, 2002 till the date of actual payment within a period of two months from the date of communication of a copy of this order along with a copy of the writ petition. In default of making of such refund within two months from date the rate of interest shall climb to 8% per annum. It is made clear that the PPO issued to the petitioner shall not be altered or changed.
6. In the result, the writ petition is disposed of.
7. 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.)