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13.09.2024
d.p.

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

W.P.A 9389 of 2023

**Sipra Biswas (Mukhopadhyay)
-versus
The State of West Bengal & Ors.**

**Mr. Syed Mansur Ali.
...For the Petitioner.**

**Mr. Anand Farmania,
Mr. Sanatan Panja.
...For the State.**

Supplementary affidavit filed by the petitioner and the report in the form of affidavit filed by the Sub-Inspector of Schools, Chandernagore Circle in Court today are taken on record.

The petitioner is aggrieved by the act on the part of the respondent authority in directing the petitioner to refund a sum of Rs.1,24,216/- on account of salary overdrawal.

The petitioner joined service as Assistant Teacher of a primary school on 13th August, 2012. According to the respondents, she was erroneously allowed to withdraw 'A' category scale of pay from the date of joining even though she did not possess the requisite qualification for the same.

The aforesaid error was detected at the time of preparing her pension document by the Director of Pension, Provident Fund and Group Insurance in the

year 2023. The petitioner retired on attaining her normal age of superannuation on 30th June, 2022.

The petitioner prays for refund of the aforesaid amount that had been deducted from her terminal dues.

The Hon'ble Supreme Court in the matter of State of Punjab Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334 clearly laid down that recovery from the retired employees and recovery from employees when excess payment has been made for a period in excess of five years before the order of recovery is issued, is impermissible in law.

In view of the law laid down by the Hon'ble Supreme Court, the act of the respondent authority in deducting the amount allegedly on account of overdrawal salary, is impermissible in law.

The District Inspector of Schools (P.E.), Hooghly and the Treasure Officer, Chandernagore are directed to refund to the petitioner the sum of Rs.1,24,216/- which was deducted from the terminal benefit of the petitioner at the earliest but positively within a period of eight weeks from the date of communication of this order.

It will, however, be open for the Pension Sanctioning Authority to rectify any error in fixation of scale of pay of the petitioner in accordance with law.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)