

12 **23.09.
2024**

Ct. No. 08

Ab

**FMA 1070 of 2024
IA No. CAN 1 of 2024**

**Indrajit Chattopadhyay
Vs.
State of West Bengal and others.**

**Mr. Subhrangshu Panda,
Mrs. Ina Chattopadhyay,
Mrs. Mithu Singha Mahapatra,
Ms. Haritri Roy.**

... for the appellant.

Mr. Md. Nurezaman.

... for the State.

Even the interim order passed by the Single Bench appears to have enured to the benefit of the writ petitioner yet the instant appeal is filed by him. The matter is still pending before the Single Bench and final decision is yet to be taken therein.

The issue pertains to the competence of the authorities to deduct any amount from the retiral benefits paid in excess due to various factors. There are catenas of decisions rendered in this regard by the several High Courts including the Apex Court wherein certain eventualities/situations have been held, where the adjustment and/or deduction and/or recovery of excess amount from the retiral benefits, to be impermissible.

The Single Bench was conscious about the aforesaid proposition of law and invited the respondent authorities to disclose their stand, obviously to find out whether the case comes within the ambit of those situations/eventualities, which renders the deduction from retiral benefits impermissible.

The respondents have not disclosed their stand as of now. The Single Bench was of the view that the person, who had attained superannuation, is accepted

to get the retiral benefits and, therefore, should not be deprived of such legitimate right.

Since the disputes pertain to excess amount having paid to the writ petitioner/appellant, the Single Bench passed an interim order directing the authorities to calculate the retiral benefits keeping the said disputed amount to be deducted so that the writ petitioner/appellant may receive the amount on account of retiral benefits and/or pension.

We do not find any incongruity or illegality in the interim order. The appeal is, thus, dismissed.

In view of the dismissal of the appeal itself, the connected application being CAN 1 of 2024 has become infructuous and the same is also dismissed.

However, any observations made hereinabove, incidentally or accidentally, touches upon the merit of the case shall not have any persuasive effect at the time of deciding the writ petition on merit. All points are kept open and shall not be deemed to have been decided by us.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Partha Sarathi Sen, J.)

