

44
10.09.2024
d.p.

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

W.P.A. 20476 of 2024

**Pankaj Kumar Maity
-versus
The State of West Bengal & Ors.**

**Mr. Satyaranjan Kundu,
Ms. Sanchayita De.
...For the Petitioner.**

**Mr. Shamim Ul Bari,
Mr. Tapas Chatterjee.
...For the State.**

**Mr. Ranjan Saha.
...For DPSC, Paschim Medinipur.**

The petitioner is a retired primary school teacher. A sum of Rs.42,306/- has been recovered from him on 14th September, 2021 on account of refund of the overdrawal amount prior to his retirement on July 31, 2023. The petitioner prays for refund of the said amount.

I have heard learned counsel for the petitioner and considered the orders passed by the Hon'ble Supreme Court as well as this Court on similar facts.

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

In the present case, order of recovery was made a little over two years prior to the retirement of the teacher.

From the documents annexed to the writ petition, it cannot be readily ascertained as to the period for which the employee enjoyed the excess payment.

In view of the above, the instant writ petition is disposed of by directing the District Inspector of Schools (P.E.), Paschim Medinipur to ascertain as to whether the petitioner enjoyed the excess payment for a period of five years prior to the order of recovery being made.

If it is found that the petitioner enjoyed the money for more than five years prior to the order of recovery being made, then the said amount shall be refunded to the petitioner along with interest @ 7% per annum with effect from the date of deposit of the amount by way of Treasury challan till the date of refund of the sum to the petitioner.

Steps shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

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.)