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04.09.2024
d.p.

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

W.P.A 20602 of 2024

**Khuku Das
-versus
The State of West Bengal & Ors.**

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

**Mr. Sankar Halder.
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner seeks refund of the amount deposited with the Treasury on account of alleged excess payment overdrawn by her.

The petitioner retired from service on attaining the age of superannuation on 28th February, 2023. She was requested to refund the excess salary drawn in June 2022. Pension Payment Order was issued in her favour on 24th February, 2023.

From the report forwarded by the District Inspector of Schools (P.E.), Paschim Medinipur dated 22nd August, 2024, it appears that the payment was made to the petitioner allegedly on account of wrong fixation of pay.

The petitioner received the benefit on and from 2009 till the date of refund of the excess salary in June 2022.

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** clearly laid down that recovery from the employees who are due to retire within one year of the order of recovery and recovery from the employees where the 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 direction for refund was contrary to the provision of law.

The respondent authority is, accordingly, directed to refund the amount which was submitted by the petitioner along with interest @7% per annum at the earliest but positively within a period of twelve 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.)