

**HIGH COURT AT CALCUTTA
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WP.ST. 6 of 2024

Mrinmoy Roy

VS.

The State of West Bengal & Ors.

For the Petitioner : Mr. Bikramaditya Ghosh
Ms. Rishita Chakraborty

For the State : Ms. Bedashruti Bose
Mr. Sandip Guha Roy

Heard on : September 26, 2024

Judgment on : September 26, 2024

DEBANGSU BASAK, J.:-

1. Petitioner assails Order No. 2 dated May 13, 2024 passed in O.A. 70 of 2013 by the West Bengal Administrative Tribunal.
2. By the impugned order, learned Tribunal directed issuance of sanction order for pension and other retiral benefits in terms of the Principal

Accountant General (A&E), West Bengal Memo dated 29.8.2023 within a period of three months from the date of communication of the order.

3. Learned advocate appearing for the writ petitioner submits that, the Tribunal overlooked the fact that Pension Payment Order records adjustment of overdrawal. Petitioner before us is covered by the ratio of *(2015) 4 SCC 334 (State of Punjab & Ors. vs. Rafiq Masih (White Washer) & Ors.)*. Therefore, necessary directions be issued not to adjust the overdrawal.
4. Learned advocate appearing for the State submits that despite repeated letters being issued to the petitioner to provide necessary documents, he did not do so.
5. Issue involved here is whether overdrawal made by the petitioner is liable to be adjusted from the pensionary benefits receivable or not.
6. Authorities are seeking to adjust the overdrawal from the retiral and pensionary benefits receivable by the petitioner.
7. *Rafiq Masih* (supra) is of the view that where the employee concerned is not instrumental in causing disbursement of the overdrawal amount and particularly when the employee concerned belongs to a Group-D and Group-C, overdrawal should not be adjusted from the retiral and pensionary benefits.

8. In the facts of the present case, there is nothing on record to suggest that the petitioner was instrumental in obtaining the overdrawing. Moreover, the petitioner belongs to a Group-C category when he retired.
9. Therefore, in view of the ratio of *Rafiq Masih* (supra), overdrawing made by the petitioner during his service career should not be adjusted against retiral and pensionary benefits receivable by the petitioner.
10. Consequently, the impugned order of the Tribunal is set aside.
11. The authorities are directed to issue fresh Pension Payment Order to the petitioner within four weeks from date without adjusting the overdrawing from the retiral and pensionary benefits receivable by the petitioner.
12. **WP.ST. 6 of 2024** is **disposed** of without any order as to costs.

(Debangsu Basak, J.)

13. I agree

(Md. Shabbar Rashidi, J.)

S.D.

