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26.09.2024
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 2148 of 2024

**Mita Chakraborty
-versus
The State of West Bengal & Ors.**

**Mr. Anirban Chakraborty.
...For the Petitioner.**

**Mr. Pretom Das,
Ms. Patralekha Chaudhury.
...For the State.**

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

The petitioner retired on 31st October, 2022 on attaining her normal age of superannuation. Pension Payment Order was issued in her favour on 14th December, 2022. Prior thereto, the petitioner was directed to deposit a sum of Rs.2,06,834/- on account of refund of overdrawal payment which the petitioner did by a Treasury Challan dated 10th August, 2022.

In the instant writ petition the petitioner prays for refund of the aforesaid overdraw amount.

It has been submitted that the said amount could not have been directed to be refunded on account of excess payment after the retirement of the teacher.

In view of the order passed by 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 laid down that recovery from retired employees or the employees who are due to retire within one year of the order of recovery is impermissible. 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 also impermissible.

In the instant case, the petitioner has been directed to refund the amount immediately prior to her retirement. The same could not have been done.

In view of the above, the instant writ petition is disposed of by directing the Director of Pension, Provident Fund and Group Insurance, the concerned District Inspector of Schools and the concerned Treasury Officer to refund to the petitioner the aforesaid amount along with interest @ 7% per annum calculated from the date of issuance of the Pension Payment Order till date of actual payment 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 photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)