32
26.09.2024
d.p.

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 2153 of 2024

Gajen Chandra Roy
-versus
The State of West Bengal & Ors.

Mr. Anirban Chakrborty.
...For the Petitioner.

Mr. Hirak Barman,
Ms. Pratusha Dutta Chowdhury.
...For the State.

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

The petitioner retired from service as a secondary school teacher on 31st August, 2021. Pension Payment Order was issued in his favour on 1st March, 2024 indicating that a sum of Rs.3,00,000/- has been deducted from his terminal benefit on account of overdrawal pay.

The petitioner submits that the said amount could not have been deducted after retirement.

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 line with the above ratio laid down by the Hon'ble Supreme Court, the recovery that has been made from the terminal dues of the petitioner cannot be accepted by the Court.

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.)