

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

WPA 4641 of 2015

Smt. Jharna Rani Mukherjee
vs.
The State of W.B. & Ors.

Mr. Kajal Ray ... for the petitioner.

Md. Mansoor Alam ... for the respondent/State.

Mr. Suddhadev Adak ...for the respondent Nos. 2, 3 & 4.

Heard on: 15.07.2025 & 07.08.2025

Judgment on: 7th August, 2025.

Ananya Bandyopadhyay, J:-

1. The petitioner retired from the post of Divisional Accountant at the West Bengal Minor Irrigation Corporation Ltd. being respondent Nos.2, 3 & 4 on 30th June, 2014. Being aggrieved by the action of the aforesaid respondents to have withhold the payment of gratuity and leave salary of the petitioner on her retirement unreasonably, the instant writ petition had been filed.
2. Pertinently, at the relevant point of time, the petitioner was a patient suffering from carcinoma. Despite representation to the aforesaid respondents to disburse the sum towards gratuity and leave salary she

was deprived of the same and was compelled to file the instant writ petition.

3. Initially vide order dated 9th March, 2015 a co-ordinate Bench of this Court directed the respondents as aforesaid to release an admitted sum of Rs.7,93,426/- forthwith in favour of the petitioner within a week's time from the date of passing of the aforesaid order which had been complied with by the respondent corporation without interest.
4. Learned advocate representing the petitioner submitted that the petitioner was entitled to a further sum of Rs.3,24,179/- which the aforesaid authorities had withheld due to over payment on various accounts during the service period of the petitioner.
5. According to Learned Advocate representing the petitioner, the respondent authorities violated the government notifications as well as decisions of Hon'ble Supreme Court in various judgments whereby upon retirement, the claim of the petitioner with regard to the gratuity and leave salary granted earlier during the service period could not be deducted and/or adjusted.
6. Learned Advocate representing the respondent authorities submitted that the sum of Rs.3,24,179/- was deducted from the retirement benefits accorded to the petitioner on grounds of erroneous award of MCAS benefits and higher fixation of pay during the service period of the petitioner and, therefore, the petitioner was exclusively entitled to the benefits of Rs.7,93,426/- instead of Rs.11,17,605/-.

7. Considered the rival contentions placed by learned advocates representing both the parties.
8. The report with regard to over payment in favour of the petitioner as placed by the respondent authorities inter alia stated as follows: *“Over payment amount of Rs.3,24,179/- would be released if she is entitled to receive the same on the Audit Investigation Report of the Finance Department. Eventually, the Finance Advisor of the Corporation placed by the Finance Department to have a vigil over the financial matters of the Corporation has raised objection as to the releasing of retiral benefits due to application of equalization of pay etc.”* From the aforesaid report it further transpired that the petitioner according to the respondent authorities had overdrawn a sum of Rs.3,24,179/- during the period from August, 2007 to June, 2014 for a continuous period of 7 years. The aforesaid sum was granted in favour of the petitioner on the basis of a calculation towards basic pay, grade pay etc. The deduction of basic pay, grade pay was decided by the concerned authorities and not by the petitioner herself. Her entitlement to the same was calculated by the respondent authorities without her participation or interference. If any error had been committed by the respondent authorities in calculating the amount if at all considered to have been disbursed erroneously, could not be attributed as a fault on the part of the petitioner to have received the same. The petitioner on retirement cannot be punished monetarily by demanding an adjustment of an

excess amount if at all to have been paid in her favour by the respondent authorities.

9. The role of the auditor to verify the irregularities if at all to have been committed by the respondent authorities cannot prejudice the petitioner to her detriment.
10. In view of the decision cited in State of Punjab & Ors. vs. Rariq Masih (White Washer) reported in AIR 2015 SC 696 the petitioner is entitled to a sum of Rs.3,24,179/- which has to be paid along with interest @ 6% per annum from the date on which her claim had accrued till the date of its realization within two months from the date of passing of this order.
11. The writ petition is disposed of.
12. The pending applications, if any, stands dismissed.
13. The interim order, if any, stands vacated.

(Ananya Bandyopadhyay, J.)

c.m./b.das A.R.Ct.