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02-07-2025
(Ct. no.18)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE**

WPA 12839 of 2025

**Niranjan Patra
Vs.
The State of West Bengal & Ors.**

Mr. Sourav Mitra,
Ms. Sreyasree Chowdhury
... For the Petitioner.

Mr. K. M. Hossain,
Mr. Kartik Chandra Kapas
... For the State.

1. Affidavit-of-Service filed on behalf of the petitioner is taken on record.

2. Petitioner retired on superannuation on 30th November, 2020 and for settlement of retiral dues, while making necessary calculations, State respondents found that sum was drawn in excess by the petitioner. It is submitted by the learned advocate, representing the petitioner, that basis of calculating excess drawn amount was admissibility of 3% additional increment for manning the post of Headmaster in an upgraded higher secondary school by the petitioner. Petitioner accepted the demand of the State respondents at the material point of time and deposited the excess drawn amount based on which pension case of the petitioner was settled and petitioner was granted retiral dues including pension.

3. After issuance of Pension Payment Order on 06th January, 2022, petitioner filed a writ petition being WPA 15964 of 2022 claiming refund of the

amount which he had to deposit for settlement of retiral dues. A coordinate Bench by disposing of the writ petition being WPA 15964 of 2022, filed by the petitioner, directed the State authorities to refund the amount along with interest.

4. Now, by filing this writ petition, petitioner has claimed consolidation of pension based on 3% additional increment which according to petitioner he was entitled to receive being Headmaster of a higher secondary school.

5. It was open to the petitioner to challenge the methodology of calculation made by the State authorities while demanding the excess drawn amount for settling the pension case of the petitioner, since, according to the State respondents, 3% additional increment was not payable to the petitioner. In the writ petition being WPA 15964 of 2022, no challenge was made towards sanction of 3% additional increment in order to fix the pension of the petitioner appropriately. Petitioner was satisfied on refund of alleged excess drawn amount.

6. Now, by filing this writ petition, petitioner cannot lay claim for sanction of 3% additional increment for re-fixation of pension. In view of disposal of the previous writ petition being WPA 15964 of 2022 vide order dated 12th May, 2023, present writ petition is barred by constructive *res judicata*.

7. Hence, the writ petition stands dismissed.

8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

9. Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Saugata Bhattacharyya, J.)