

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
Appellate Side**

**Present:**

**The Hon'ble Justice Ajay Kumar Gupta**

**WPA 3675 of 2023**

**Mojahar Hossain**

**Versus**

**The State of West Bengal & Ors.**

**For the Petitioner** : Mr. Ekramul Bari, Adv.  
Mr. Sk. Imtiaz Uddin, Adv.

**For the State** : Mr. Jaydip Basu, Adv.

**Finally heard on** : 18.03.2026

**Judgment on** : 18.03.2026

**Ajay Kumar Gupta, J.:-**

1. The petitioner has preferred third round of litigation by way of this writ petition praying, *inter alia*, as follows: -

- a) *A writ of or in the nature of Mandamus do issue directing the respondents, their agents, servants to finalize the pension of the petitioner and to release and disburse the pension, gratuity and all other admissible benefits of the petitioner taking into consideration of 18 years benefit as well as the incremental benefit along with interest forthwith.*
- b) *A writ of or in the nature of mandamus commanding the respondents, particularly the Deputy Director of Accounts, School Education Department, Dakshin Dinajpur, being respondent No. 2 to rescind, cancel and/or withdraw the communication of the Commissioner of School Education dated 05.02.2022 being Annexure "P/ 12" to this petition.*
- c) *A writ of or in the nature of Certiorari commanding the respondents to produce entire original records before this Hon'ble Court so that conscionable justice may therein be administered by quashing the observation of the Deputy Director/ Joint Director of Accounts, School Education Department, Dakshin Dinajpur being Annexure "P/ 13" to this petition.*
- d) *Rule NISI in terms of prayers (a) to (c) as above.*
- e) *Ad interim order do issue commanding the respondent's authority not to give effect and or further effect to the observation made by the Deputy Director/ Joint Director of Accounts and to finalize the pension of the petitioner and to release and disburse the pension,*

*gratuity and all other admissible benefits without any deduction till the disposal of this application.*

*f) To make the rule absolute should the respondents fail to make sufficient answer or return.*

*g) And pass such other further order or orders as to your Lordships may seem fit and proper.”*

**FACTS OF THE CASE:-**

**2.** The brief facts, leading to the filing of this third writ petition, are as follows: -

**a.** The petitioner was appointed as an organising staff member in Bagichapur Nazrul Smriti High School, District – Dakshin Dinajpur (in short ‘the said school’), which was granted recognition from the West Bengal Board of Secondary Education w.e.f. 01.05.2001.

**b.** Although the said school obtained recognition, the appointment of the petitioner, including other organising staff members, was not approved initially. Consequently, the petitioner and the other staff moved a writ application before this Hon'ble Court. Upon hearing the parties, the Hon'ble Court directed the authorities to accord approval to the petitioner along with other staff members of the said school. Accordingly, the District Inspector of Schools (SE) approved the petitioner's appointment w.e.f. 01.05.2001, which was communicated by Office Memo No. 1167 dated 19.07.2007.

- c.** The petitioner's appointment was initially approved for the period from 01.05.2001 to 30.04.2002 and, thereafter, such approval was extended from time to time. A permanent appointment was granted only after the school's upgradation. The petitioner continued to render continuous service as a permanent staff member of the said school. Upon completion of 18 years of service, he applied before the school authority on 20.06.2019, seeking grant of 18 years' service benefit under the Career Achievement Scheme (CAS).
- d.** The school authority forwarded the application to the Additional District Inspector of Schools (SE) Gangarampur Sub-Division, and it appears that the Deputy Director of Accounts under Memo D/AC(Edn)/F.D.D. 30/2019 dated 04.09.2019 returned the proposal for fixation under CAS (18 years) benefit in respect of six staffs of the said school. It was observed that an increment in the revised scale of pay under ROPA 2009 could be allowed only after completion of B.Ed. Examination, and necessary action was directed to be taken in this regard, including recovery of any overdrawn amount.
- e.** Upon receipt of the said Memo dated 04.09.2019, the headmaster of the said school, by letter dated 11.11.2019, submitted the required documents before the Deputy Director of Accounts

through the Additional District Inspector of Schools (SE), Gangarampur Sub-division under Memo No. 254/BNSHS.

**f.** Subsequently, the Deputy Director of Accounts, by Memo No. D/AC(Edn)/F.D.D. 74/2019, dated 27.11.2019, informed the District Inspector of Schools (SE), Dakshin Dinajpur, that the earlier audit observation, dated 04.09.2019, still stood with regard to the grant of incremental benefit to untrained teachers appointed before 2002. It was also pointed out that the approving authority may consult with G.O. No. 149-Edn(S) dated 19.02.1979, No. 759-SE/S dated 30.07.2009, No. 118-SE/S dated 06.02.2018 and the latest order No. 806-SE/S dated 08.07.2019, respectively. It was further advised that if the above-mentioned G.O. (s) of the Education Department are not satisfactory, the matter should be referred to the School Education Department for further clarification.

**g.** Thereafter, the petitioner submitted a representation dated 04.12.2019 before the Additional District Inspector of Schools (SE) Gangarampur Sub-Division through the Headmaster of the said school, who again re-forwarded the proposal for fixation of pay for 18 years' service benefit on 06.12.2019.

**h.** By Memo No. 330/GS dated 23.12.2019, the Additional District Inspector of Schools (SE) Gangarampur Sub-Division submitted the prayer for pay fixation with an observation the teachers had joined the school on 01.05.2001. Reference was made to NCT Guideline No. 61 dated 03/20/2010/NCTE dated 23.08.2010, which states that teachers appointed prior to the date of Notification mentioned in para 4(a), i.e., Upper Primary Section, need not possess the minimum qualification specified in para 1 of the notification. It is noted that the teacher is assigned to the Upper Primary Section of the school. A request was made to see the G.O. No. 30-SE dated 10.02.2010 in para 10(5) and further reference number. However, despite such observation, the Additional District Inspector of Schools rejected the petitioner's claim for incremental benefit.

**i.** Challenging the said decision, the writ petitioner, along with others, filed a second writ petition before this Hon'ble Court, being WPA No. 1086 of 2020, seeking directions upon the respondent to grant the 18 years' service benefit. The said writ petition was disposed of on 23.09.2022, with a direction, *inter alia*, upon the Commissioner of School Education to take a decision regarding the petitioner's entitlement to the said benefit within 12 weeks from

the date of communication of the order. The Court further made clear that if the petitioner's appointment had been approved with effect from 01.05.2001 and the petitioner had rendered continuous approved service for 18 years, the benefit claimed could not be denied.

- j.** In terms of the direction passed by the Hon'ble Court, the Commissioner of School Education fixed a hearing on 10.11.2022, when the petitioner appeared and submitted the written notes of argument.
- k.** Thereafter, the Commissioner of School Education passed an order, holding that the petitioner and others were eligible for 18 years' service benefit, counting their service from 01.05.2001; however, they were not entitled to receive incremental benefit beyond 5 years of service, as they did not possess a B.Ed. degree in terms of the provision stipulated in ROPA 1998, read with ROPA 2009. Accordingly, the Commissioner of School Education concluded and passed an order by re-fixing the pay of the petitioner after disallowing the incremental benefit beyond 5 years of service for not having a B.Ed. degree, though the 18 years' service benefit was allowed as per the rule.

1. The petitioner retired from service on 31.12.2022. While processing the pension papers, the Assistant Deputy Director of Accounts, Dakshin Dinajpur observed that the petitioner's pay should be recast in the service book with effect from 01.07.2006, and that the overdrawn amount should be recovered through TR-7.
- m.** The petitioner contends that the Commissioner of School Education failed to properly consider Notification No. 277-SE(P)/10M-6/09 (Pt-I) dated 28.03.2012. Since the petitioner's appointment was approved with effect from 01.05.2001, the requirement of B.Ed. qualification was not applicable in terms of the relevant NCTE guidelines.
- n.** The petitioner's approval was granted prior to 03.09.2001, the requirement of obtaining B.Ed. qualification could not have been imposed on the petitioner. However, the Commissioner of School Education erred in holding that the petitioner is not eligible to get incremental benefits beyond five years of service.
- o.** It is further the case of the Petitioner that the Commissioner of School Education to consider that the petitioner's appointment was accrued in terms of the order of the Hon'ble Court in the capacity of organising staff, instead of the regular recruitment process. It would be unfair to treat the petitioner as an equal to the other

teachers, who were appointed through the regular recruitment process.

**p.** According to the petitioner, the decision of the Assistant Deputy Director of Accounts regarding recovery and recast of the pay of the petitioner is also not tenable in view of the judgment of the Hon'ble Apex Court.

**q.** The petitioner retired from his service on 31.12.2022, but till date, no pensionary benefits, including gratuity and all other dues have been released, except for a portion of the provident fund amount. The impugned decision of the Commissioner of School Education is not at all tenable in the eyes of law and the same is liable to be set aside.

**r.** Being highly aggrieved by and dissatisfied with the purported communication of the Commissioner of School Education dated 05.12.2022 as well as the observation of the Deputy Director/Joint Director of Accounts, the petitioner preferred this writ petition. Hence, this writ petition.

**SUBMISSIONS ON BEHALF OF THE PETITIONER:-**

**3.** Learned counsel appearing on behalf of the petitioner submitted that pursuant to the directions of the Hon'ble Court, the petitioner's service was approved w.e.f. 01.05.2001 as organising staff. His case

was also considered by the respondent authority and finally his appointment was approved after the upgradation of the said school. Therefore, the petitioner is entitled to get all pensionary benefits considering the period of service of 18 years. Therefore, direction for recast in service book from 01.07.2006 and the recovery of overdrawn amount from the petitioner is not permissible in law in view of the decisions of the Hon'ble Apex Court.

4. It is further submitted that the employer is not able to recover the overdrawn amount even the mistakes or discrepancies were detected in view of the decisions of the Hon'ble Apex Court.
5. The petitioner, while submitting the written notes before the Commissioner of School Education, categorically mentioned the judgment of the Hon'ble Supreme Court in the case of ***Thomas Daniel -v- State of Kerala and Ors<sup>1</sup>***, but the Assistant Deputy/Joint Director of Accounts, while finalising the pension papers of the petitioner, observed that the overdrawn amount should be refunded, which is not at all tenable in law.
6. Learned Counsel has placed reliance on the following judgments of the Hon'ble Apex Court and High Court to support his aforesaid submissions that the petitioner is entitled to get pensionary and

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<sup>1</sup> **2022 SCC Online SC 536**

other benefits as per his last pay fixation and also authorities cannot recover any amount paid to him without fault of the petitioner as under:

- i. State of Punjab & Ors. vs. Rafiq Masih (White Washer) & Ors.<sup>2</sup>***
- ii. Thomas Daniel vs. State of Kerala & Ors. (Supra)***
- iii. Smt. Kalpita Moitra (Chakladar) vs. State of West Bengal & Ors., in FMA 777 of 2023.***

**SUBMISSIONS ON BEHALF OF THE STATE:-**

- 7.** Learned counsel appearing on behalf of the State vociferously opposed the prayer of the learned counsel appearing on behalf of the Petitioner and further submitted that the Petitioner is entitled to 18 years' service benefits, counting from his service from 01/05/2001. However, he is not eligible for incremental benefits beyond 5 years of service because he does not have a B.Ed. degree or improving a B.Ed. degree as per existing rules.
- 8.** Learned counsel further stressed and relied upon the affidavit-in-opposition filed by the respondent no. 3. The judgments relied upon by the petitioner is not applicable in the present case because the Audit observation was raised on 04.09.2019, i.e., before retirement of

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<sup>2</sup> (2015) 4 SCC 334

the writ petitioner on 31.12.2022 and the writ petitioner did not re-submit his pension papers with proper recast of pay so that the State respondents may sanction admissible retirement benefits in accordance with law, as such, the writ petition should be dismissed.

**FINDINGS AND ANALYSIS OF THIS COURT:-**

9. Having heard the arguments and submissions of the learned counsels appearing on behalf of the respective parties and upon perusal of the materials placed on record, this court finds that admittedly, the petitioner, with a B.A. qualification, was initially approved as an Assistant Teacher of the said School in Language Group with effect from 01.05.2001 to 30.04.2002. Further, the District Inspector of Schools (SE), Dakshin Dinajpur, issued Memo No. 1327/A dated 05.09.2008 & others extended approval of his appointment with effect from 01.05.2002. His service was ultimately recognised and approved from the date of his appointment, i.e., 01.05.2001. Since then, he was working as an organising staff member of the said school. He retired from service on 31.12.2022.
10. The stand of the State respondents is that, in view of the audit observations, the fixation of the petitioner's pay requires recalibration in accordance with law. According to the respondents, the petitioner

is not entitled to incremental benefit beyond a certain stage, since he did not acquire a B.Ed. qualification during his service tenure.

- 11.** While scrutinizing the application for granting benefit of 18 years of continuous approved service, under Career Advancement Scheme (CAS), the concerned Deputy Director of Accounts (SE), Dakshin Dinajpur raised the point that despite being untrained teacher, the petitioner was allowed by the concerned school authority to draw annual normal increment beyond 5 years, which is impermissible in law and such overdrawn required to be recovered, as it was paid mistakenly.
- 12.** In 2020, when the letter dated 02.01.2020 was issued, first time the issue relating to the wrong fixation of scale of pay by annual usual increment was raised, yet the petitioner was paid the same scale of pay after annual increment till 2019. By the said letter, the Dy. Director issued a direction to fix the pay of the petitioner after disallowing the incremental benefit beyond 5 years for not having a B.Ed. degree. However, the respondent authorities allowed 18 years' service benefit as per the existing rules.
- 13.** In view of the aforesaid stand taken by the respondents, the question that arises for consideration is whether the petitioner is entitled to receive annual normal increments beyond 5 years till his retirement,

and consequently, whether the respondent authority is justified in seeking recovery of the alleged excess payment made on account of such increments?

- 14.** In order to address the aforesaid questions, this court would like to look into the observation of the Commissioner of School Education in **Memo No. IC/46/LS/2020** dated **5<sup>th</sup> December, 2022** which is set out herein below: -

- i. The writ petitioners namely Dipendra Nath Mondal, B.Sc. & Mojahar Hossain, B.A. were initially approved as Assistant Teachers of Bagichapur Nazrul Smriti Jr. High School in Science & Mathematics Group and Language Group respectively with effect from 01/05/2001 to 30/04/2002 by the concerned District Inspector of Schools (SE), Dakshin Dinajpur under Contempt Proceeding vide his office memo no. 1167 dated 19/07/2007. The District Inspector of Schools (SE), Dakshin Dinajpur further issued memo no. 1327/A dated 05/09/2008 & others extending their approval of appointments with effect from 01/05/2002.*
- ii. The school in question was upgraded to X class High School in terms of West Bengal Board of Secondary Education's memo no. S/Recog/2014 dated 29/05/2014 with effect from 01.01.2014.*
- iii. Sri Dipendra Nath Mondal and Mojahar Hossain completed 18 years continuous approved service in the school on 30/04/2019.*
- iv. While scrutinizing their application for granting benefit of 18 years continuous approved service under Career Advancement Scheme, the concerned Deputy Director of Accounts (SE), Dakshin Dinajpur raised the point that in spite of being*

*untrained teachers they were allowed by the concerned school authority to draw annual normal increment beyond 5 years.*

- v. In terms of provisions stipulated in Sub-rule 4 of Rule 12 of ROPA '98 'Untrained Secondary School teachers shall be allowed annual increments in the revised scale of pay on condition that such untrained teachers will have to get themselves trained within five years from the date of appointment. An untrained teacher or a recognized Secondary School or a Madrasah of the secondary type with ten years' teaching experience in recognized schools/Madrasah shall be treated as a trained teacher for the purpose of drawal of increment in the scale applicable to the teacher concerned with effect from the date on which the condition of teaching experience is fulfilled. Such a teacher shall be eligible to draw the increment on completion of one year's service from the date on which the above condition is fulfilled.*

*In terms of para 5(d) of G.O. No. 181-SE(B)/5B-1/09 dated 08/10/2009 of ROPA'09:*

*'Untrained Secondary School Teachers shall be allowed annual increments in revised pay structure on condition that such untrained teachers will have to get themselves trained from any institute recognized by N.C.T.E. in regular or open and distant education mode within 5 years from the date of appointment. An untrained teacher of a recognized Secondary School with ten years teaching experience in recognized school shall be treated as a 'trained' teacher for the purpose of drawal of increments only (but not for applying to the post of Headmaster as a trained teacher) in the pay structure applicable to the teacher concerned after completion of one year from the date on which the condition of teaching experience is fulfilled.'*

*[The granting of drawal of increment by untrained teachers has been relaxed upto 2012 (one time relaxation) by which they have to complete B.Ed. training has been published under G.O. No. 759-SE (S)/2P-01/2009 dated 30<sup>th</sup> July, 2009].'*

- vi.** *G.O. No. 759-SE (S)/2P-01/2009 dated 30<sup>th</sup> July, 2009 is not applicable in the instant case because they were appointed before 2006. It states:*

*'In reference to his memo no. 2443-G. A/OM-20/2006 (pt.) dated 24.12.2008 on the above noted subject the undersigned is directed to say as per existing rules/provisions 4 (four) increments are allowed to the Assistant Teachers during their first 5 (five) years of service within which they have to complete the B.Ed. course approved by NCTE. As during the period of Court Cases continued for the last 3 years, the incumbents' concerned were unable to even get themselves admitted to the B.Ed Course in the colleges approved by NCTE, the Governor after careful examination of all the facts and circumstances of the cases has been pleased to allow the incumbents in drawing increments upto the year 2012 as usual and during that period they must have to complete such training approved by NCTE.*

*This is only one time relaxation which is being granted upto the year 2012 and will not be extended beyond that on any ground. This order issues with the concurrence of the Finance Department vide U.O No. 1368, Group-P(Pay) dated 07.07.2009.'*

- vii.** *As the petitioners were appointed/approved w.e.f. 01/05/2001 i.e. before 2002, they are also not entitled to get the benefit of G.O. No. 806-SE/S dated 08/07/2019 which states:*

*'In partial modification of this Department Order No. 118-SE/S/10-M-29/16 dated 06.02.2018, the benefit of Increments given to the Untrained Teachers appointed during the period*

*2006 to 2009 up to 01.07.2015 in relaxation of existing Rules, is hereby extended to the Untrained Teachers, who are identical in all respect to the Untrained Teachers, as detailed in the above noted order and appointed during the years 2002 to 2005, on the same rationale and under same terms and conditions, as stated in the above note Order. All concerned shall take necessary action to restore lost increment and all benefits thereof to the above-mentioned affected Teachers appointed during the years 2002 to 2005 up to 01.07.2015 and other follow-up action in the matter. This issues with the approval of the Competent Authority in this Department and concurrence of the Finance Department vide UO No. Group P1/2019-2020/0067, UO Date 07.06.2019.'*

**viii.** *By Notification dated 23/08/2010, National Council for Teacher Education lays down minimum qualification for a person to be eligible for appointment as a teacher in class I to VIII in a school referred to clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009 with effect from the date of Notification. It only deals with eligibility of an incumbent for being considered for appointment as Teacher in a school and not with his fixation benefit, after being appointed. Entitlement of pay fixation benefits comes from different ROPA Rules.*

- 15.** Upon careful examination of the observations of the Commissioner of School Education, this Court is of the view that even though the petitioner was not legally entitled to receive annual increments beyond the permissible period unless he acquired the requisite B.Ed. qualification, it is an admitted position on record that the petitioner

was granted the usual annual increments by the respondent authorities for a long period during his service tenure.

- 16.** It further appears from the records that the petitioner, along with other staff members, had previously approached this Court by filing writ petitions challenging denial of service benefits. Those writ petitions were ultimately decided in favour of the petitioners. Despite such orders and despite having granted increments and other benefits for several years, the respondent authorities subsequently raised the issue of alleged excess payment through the communication dated 02.01.2020 issued by the Deputy Director of Accounts (SE), Dakshin Dinajpur, directing that the petitioner's pay be re-fixed by disallowing increments beyond five years on the ground of absence of B.Ed. qualification.
- 17.** Significantly, the alleged error in pay fixation was raised for the first time only in the year 2020, although the petitioner had been receiving increments since 2001, i.e., for nearly 18 years of continuous service. There is no allegation whatsoever that the petitioner had obtained such increments by way of fraud, misrepresentation or suppression of material facts. The increments were granted by the competent authorities in the course of administrative action.

- 18.** In such circumstances, the question of recovery of alleged excess payment must be examined in light of the settled principles laid down by the Hon'ble Supreme Court.
- 19.** So far as the recovery of overdrawn amount is concerned, the Hon'ble Apex Court in the case of **Rafiq Masih (Supra)** has categorically held that the recovery of excess payments from employees would be impermissible in certain situations. It was further held that such recovery would be arbitrary, harsh and inequitable. The circumstances have been enlisted in paragraph No.18, as under:

*“18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*

- (i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*
- (ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
- (iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*

*(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”*

- 20.** Similarly, in the case of ***Thomas Daniel (Supra)***, the Hon’ble Supreme Court reiterated that recovery of excess payments made due to a mistake of the employer cannot be ordered after a long period, particularly where the employee has already retired or is about to retire, and the employee was not responsible for the mistake. The relevant paragraph has been set out hereinbelow: -

*“14. Coming to the facts of the present case, it is not contended before us that on account of the misrepresentation or fraud played by the appellant, the excess amounts have been paid. The appellant has retired on 31.03.1999. In fact, the case of the respondents is that excess payment was made due to a mistake in interpreting Kerala Service Rules which was subsequently pointed out by the Accountant General.”*

- 21.** In the present case, the petitioner had served continuously since 01.05.2001 till his retirement and the alleged error in pay fixation was raised only in 2020, that is more than eighteen years of service. The mistake, if any, was entirely attributable to the administrative authorities and not to the petitioner. Therefore, applying the ratio laid down in ***Rafiq Masih (Supra)*** and ***Thomas Daniel (Supra)***, this Court is of the view that recovery of the alleged excess payment from the petitioner would be wholly unjustified and impermissible in law.

- 22.** In view of the principle laid down in the aforesaid judgments, recovery of an overdrawn amount is impermissible. In the event, such recovery made from an employee who belongs to Class III and Class IV service; the employee who is due to retire within one year; the excess payment is made for a period in excess for five years; employee who was wrongfully required to discharge the duties of higher post even though he should have rightly been required to work in the inferior post and in the event, this court finds that the recovery would be harsh and arbitrary overweighing the equitable balance of the employees' right to recover.
- 23.** The view of the respondent concerned is that as the petitioner was in continuous service without a break from 01.05.2001, all other service benefits may be allowed for the interest of justice with all arrears.
- 24.** This court is of the considered opinion that after going through the principle laid down in the aforesaid judgments, the State respondent authorities are within their power to recover the excess amount paid to the employee on a mistakenly fixed scale of pay, but would subject to some restriction as discussed in the foregoing paragraphs.
- 25.** In the present case, the scale of pay was fixed time to time with effect from 01.05.2001 and the issue relating to the fixation of scale of pay was first raised by the respondent authorities in the year 2020, after

more than 18 years of his service. Therefore, such wrong fixation cannot be attributed to the petitioner herein, and the same is also not permissible to recover from the petitioner either prior to or after his retirement. Insofar as the determination of the aforesaid point is concerned, the Hon'ble Supreme Court has, on numerous occasions, unequivocally reiterated the circumstances under which such recovery is impermissible.

- 26.** Such directions of the Hon'ble Supreme Court have a binding effect on this court as it is construed as a law declared by the Hon'ble Supreme Court under Article 141 of the Constitution of India.
- 27.** Consequently, **WPA 3675 of 2023** stands **allowed** without order as to costs.
- 28.** The respondent authorities are directed to release the pensionary benefits of the petitioner, along with arrears, if any, on the basis of the last pay drawn, without effecting any recovery on account of the alleged excess payment arising out of wrongful and/or mistaken fixation of pay. The entire exercise shall be completed within a period of 8 (eight) weeks from the date of communication of this Judgment positively, along with simple interest @ 7%. In default, interest @ 8% would be charged till final disbursement of the arrear payment.
- 29.** Connected applications, if any, are also, thus, disposed of.

- 30.** Interim order, if any, stands vacated.
- 31.** Parties shall act on the server copies of this Judgment downloaded from the official website of the High Court at Calcutta.
- 32.** Urgent Photostat certified copies of this Judgment, if applied for, be supplied to the parties upon compliance of all the necessary and legal formalities.

**(Ajay Kumar Gupta, J.)**

**P.A.**