

WPA 29577 of 2025

**Manik Chakraborty
Vs.
The State of West Bengal & Ors.**

Mr. Manas Kumar Ghosh
Ms. Susmita Dey (Basu)
Mr. Antorik Dawn
...for the petitioner

Mr. N.C. Bihani
Mr. Soumyajit Ghosh
...for the CSTC

1. Supplementary affidavit filed on behalf of the petitioner is taken on record.
2. Learned advocate representing the petitioner complains of recovery of earned leave for 17 days from the retiral dues of the petitioner. It is stated in the supplementary affidavit that inadvertently in the writ petition it is stated that earned leave for 62 days was recovered but recovery of earned leave was made by the concerned authority of Calcutta State Transport Corporation (for short, CSTC) for 17 days.
3. It is also submitted on behalf of petitioner that though prayer is made for release of arrear increment and dearness allowance but said prayer is not pressed.

4. Mr. N.C. Bihani, learned senior advocate representing CSTC on instruction submits that 15 days earned leave was not paid to the petitioner after his retirement on 30th April, 2023. According to CSTC reason is payment made under Career Advancement Scheme (for short, CAS) in 2010 instead of 2013 as a result whereof excess payment was made to the petitioner at the material point of time resulting in non payment of earned leave at the time of releasing terminal benefits due to superannuation of the petitioner on 30th April, 2023.
5. Taking note of submission made on behalf of CSTC it appears that contemporaneously recovery was not made due to excess payment made under CAS. CSTC authority decided not to pay earned leave for 15 days from which it appears that it is not non payment of earned leave but recovery from retiral dues due to excess payment made by the employer in 2010 under CAS.
6. In this regard reliance is placed on the judgment of the Hon'ble Supreme Court reported in **(2015) 4 SCC 334 (State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors.)**.
7. As per paragraph 18 of **Rafiq Masih** (supra) recovery from retiral dues of Group-C employee is impermissible even if excess payment was made to

the said employee during his tenure. Petitioner was working as conductor under CSTC which is Group-C post. Therefore, paragraph-18(i) of **Rafiq Masih** (supra) applies in the present case.

8. Hence, concerned authority of CSTC is directed to pay the amount which was recovered from earned leave of the petitioner by 4 (four) weeks from the date of communication of this order along with interest @ 6% p.a from the date following the date of superannuation till the date of payment.
9. Writ petition stands disposed of.
10. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)