

S/L 15
03.07.2026
Court No.7
Susanta

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION

WPST 1 of 2026

Sri Sunilendu Bhattacharya @ Bhattacharyya
Vs.
The State of West Bengal & Ors.

*Mr. Arnab Saha,
Md. Shoaib Akhtar*

...for the Appellants.

*Mr. Jagriti Mishra, Ld. AAAG
Ms. Radhika Agarwal*

...for the State.

Mr. Sudip Kumar Paul,

...for the respondent nos. 2 & 5.

1. The petitioner is a retired employee of the Food and Supplies Department. He is aggrieved by the deduction of certain amount of pay from his pro-rata pension. The petitioner retired from his service on 30th June, 1984 and the Pension Payment Order was issued in his favour in the year 2005. The deduction started on and from 1st September, 2014.

2. The petitioner, aggrieved by the said deduction, approached the West Bengal State Administrative Tribunal by filing O.A. No. 272 of 2015. The said Original Application was considered by the Tribunal on several dates but the same could not be finally disposed of due to non-functioning of the Administrative Tribunal for quite some time past.

3. The instant writ petition has been filed, inter alia, praying for direction upon the Tribunal for early disposal of the Original Application.

4. The learned advocate for the petitioner also relies upon the judgment of the Hon'ble Supreme Court in the case of ***Sasikala Devi P. Vs. The State of Kerala & Ors.*** reported in **AIR 2023 SC 2187** and in the case of ***Jagdish Prasad Singh Vs. State of Bihar & Ors.*** reported in **AIR 2024 SC 3950**.

5. Learned AAAG has brought to the notice of the Court that the petitioner himself did not take any steps before the Tribunal on several occasions. The learned counsel, however, fairly submits that the issue in question has already been decided by the Hon'ble Supreme Court in various decisions.

6. It has been brought to the notice of the Court that the West Bengal State Administrative Tribunal is not functioning due to want of members. Remanding the matter to the Tribunal for early disposal will not serve the purpose of the petitioner who is an octogenarian. Delay in disposal of his application will certainly result in gross miscarriage of justice. A litigant cannot be made to suffer due to non availability of a judicial forum to adjudicate his dispute.

7. Since the issue as to whether any amount can be deducted from the terminal dues of a retired employee is no longer *res integra* and the same has been categorically decided by the Hon'ble Supreme Court in the matter of ***State of Punjab & Ors. Vs. Rafiq Mashi (White Washer) & Ors.*** reported in **(2015) 4 SCC 334**. The Court specifically laid down that recovery from retired employees is impermissible. Accordingly, the Court is minded to entertain the instant writ petition and dispose of the same on merits.

8. Upon hearing the parties and on perusal of the documents annexed to the writ petition it appears that the petitioner retired long back in the year 1984. He sought for commutation of his pension. For restoration of his full pension, calculation was made. Then it was detected that certain amount was paid to the petitioner in excess. Such excess payment was deducted.

9. Such action on the part of the authority in deducting any amount from the terminal dues of a retired octogenarian employee would be clearly impermissible in view of the dictum of the Hon'ble Supreme Court in the matter of *Rafiq Mashi (supra)* followed in *Sasikala Devi P. (supra)* and *Jagdish Prasad Singh (supra)* that, recovery from retired employees when

excess payment has been made for a period in excess of five years before the order of recovery is issued.

10. In the instant case, recovery has been made in the year 2014/15 onwards, i.e. long after the employee retired from service and the employer-employee relationship ceased to exist.

11. In view of the above, the instant writ petition stands **disposed** of by directing the respondents to refund the amount that has been deducted from the terminal dues of the petitioner at the earliest but positively within a period of **eight weeks** from the date of communication of this order.

12. The terminal dues of the petitioner shall be disbursed strictly in accordance with law.

13. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)

(Ajay Kumar Gupta, J.)