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(DO)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA/24986/2024

GOURI SANKAR BANERJEE
VS
STATE OF WEST BENGAL & ORS.

Ms. Susmita Dey (Basu), Advocate
Mr. Kaustav Ghosh, Advocate
Mr. Antarik Dawn, Advocate

.....for the Petitioner

Mr. N.C. Bihani, Advocate
Mr. Soumyajit Ghosh, Advocate

.....for the CSTC

1. The petitioner has been in service since 1991 with respondent no. 3. The petitioner worked as a conductor and retired on June 30, 2023. The petitioner, upon retirement, received his terminal benefits and is receiving pension.
2. However, by memo no. 952/(8)/CSTC dated October 3, 2023, even though gratuity was sanctioned to the tune of Rs.6,63,600/-, a sum of Rs.1,14,454/- was recovered from the sanctioned gratuity amount as overpayment, without being heard in any manner.
3. Thereafter, the petitioner was informed that a sum of Rs.2,02,665/- had been realized from his terminal and other dues after his retirement from the benefits under ROPA 2009.
4. The dictum of the Hon'ble Supreme Court of India in *State of Punjab & Ors. Vs. Rafiq Masih* reported in (2015) 4 SCC 334, is clear. Such terminal benefits cannot be recovered from a retired employee on the ground of overpayment.
5. Mr. Bihani, learned Advocate appearing for the authorities has furnished instructions, wherefrom it clearly appears that a sum of Rs.2,02,665/- has been recovered from the petitioner on account of arrears in

leave salary and dearness allowance, as well as on account of increments. The second tranche of realization has been on account of gratuity.

6. A copy of the instructions and the documents handed over by Mr. Bihani, be kept on record.
7. The authorities are willing to refund the same within a reasonable time.
8. Let such repayment be made by September 15, 2026.
9. Since these are the benefits payable to the petitioner and the same have been wrongly recovered, the petitioner is entitled to interest.
10. Interest at the rate of 6% will be paid from the date of recovery till the date of actual payment.
11. With these observations, the writ-petition is **disposed of**.
No order as to costs.

(Reetobroto Kumar Mitra, J.)