

(2012) 10 CAL CK 0033

Calcutta High Court

Case No: Writ Petition No. 6866 (W) of 2012

Smt. Kalpana Mukherjee

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: Oct. 17, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Tarapada Das, for the Appellant; Debabrata Saha Roy and Mr. Siddhartha Ruj for the State, for the Respondent

Judgement

Hon'ble Mr. Justice Jayanta Kumar Biswas

1. The petitioner in this WP under art. 226 is alleging that the respondents wrongfully deducted a substantial amount from her retirement benefits. During the period from February 8, 1982 to September 23, 2002 the petitioner was residing in an accommodation allotted to her husband by Chittaranjan Locomotive Works, his employer. The flat in question was allotted to the petitioner on September 24, 2002. The petitioner's husband retired from service on January 31, 2004 and the petitioner retired from service on August 31, 2009.

2. Relying on the two Government Orders No. 475-EDN.(B) dated October 17, 1981 and No. 25-SE(B) dated February 12, 1999, Mr. Saha Roy appearing for the State has submitted that the petitioner was not entitled to any house rent allowance for the period from February 8, 1982 to September 23, 2002. After going through the Government Orders, Mr. Das appearing for the petitioner has accepted the position that for this period the petitioner was not entitled to any house rent allowance.

3. It is, therefore, evident that if any deduction towards recovery of overpayment for the period from February 8, 1982 to September 23, 2002 was effected, then it was

rightly done. The question, however, is whether for the period from September 24, 2002 to August 31, 2009 the petitioner was entitled to any house rent allowance.

4. The petitioner's case is that for the period from March 2007 to December 2009, though she paid house rent at a higher rate, the respondents gave her house rent at a lower rate. According to her she paid Rs. 21,964 in excess of her liability.

5. The District Inspector of Schools did not make any inquiry. Both Mr. Das and Mr. Saha Roy have submitted that on the facts it will be appropriate to ask the District Inspector of Schools to make an inquiry for ascertaining whether for the period from September 24, 2002 to August 31, 2009 the petitioner is entitled to any amount on account of house rent allowance. For these reasons, I dispose of the WP ordering as follows. The District Inspector of Schools shall make an inquiry, hear the petitioner and decide whether for the period from September 24, 2002 to August 31, 2009 she is entitled to any amount. Compliance within eight weeks from the date this order is served. Costs remission prayer is allowed. No costs. Certified xerox.