

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/01245/2015

Date of Order: 10.11.2016.

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Jyoti Rekha Bose
Vs.
Defence

For the Applicant : Mr. A. Chakraborty, Counsel
Ms. P. Mondal, Counsel

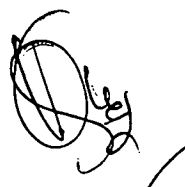
For the Respondents : Mr. P. Mukherjee, Counsel

ORDER (Oral)

Per Justice Shri Vishnu Chandra Gupta, JM:

Heard Id. counsel for applicant and respondents.

2. The applicant retired as Sr. TGT in the RFI High School. She retired from service after attaining the age of superannuation on 30.09.2009. Before her retirement she was awarded an up-gradation in the selection grade with effect from 27.03.2008 and Grade Pay of Rs. 5400/- was given instead of Rs. 4800/- vide order dated 13.10.2012. A show cause notice was given to her on 04.07.2014 by the Jt. General Manager, Administration as to why the grade pay of Rs. 4800/- has not been given and the benefit of up-gradation may not be withdrawn. A reply has been given by the applicant but the



same was rejected by an order dated 17.08.2014 and consequently her pay was revised and the recovery was made in pursuance of the order passed on 13.10.2012. Against the said action taken by the respondents, the present original application has been filed.

3. Learned counsel for respondents filed the reply and stated that it was a case of mistake which has been rectified. It is not the case of the applicant and the order passed was not in accordance with rules. However, the request has been made that no recovery should be made of the amount which has already been paid in pursuance to the order dated 13.10.2012.

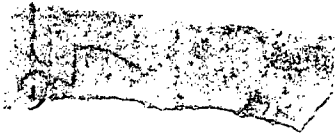
4. Learned counsel for applicant placed on record an Office Memorandum dated 02.03.2016 which has been issued by the DOPT keeping in view the judgment cited therein especially Rafiq Masih's case.

5. As no prayer has ever been made by the applicant from the authorities not to recover the amount as excess payment in the light of the judgment rendered by the Hon'ble Apex Court in the case of **State of Punjab & Ors. vs. Rafiq Masih**.

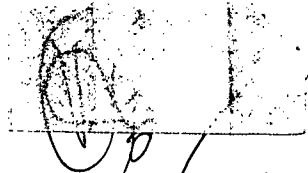
6. Hence, we disposed of the petition finally with the appropriate direction to the parties in case the applicant first prefer a representation to the authorities, within 4 weeks from today claiming the relief stay of recovery of overdrawal, the same shall be disposed of by the authorities within a period of 4 weeks thereafter, keeping in view the law laid down by the Hon'ble Apex Court as well as in the



light of Office Memorandum issued on 02.03.2016 having F. No. 18/03/2015 – Estt. (Pay-I), by passing a speaking and reasoned order under intimation to the applicant. Till the disposal of the representation the recovery of the overdrawal amount shall not be made from the applicant. There shall be no order as to costs.



(Jaya Das Gupta)
Member (A)



(Justice Vishnu Chandra Gupta)
Member (J)

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