

**Constitutional Writ**  
**Present: The Hon'ble Mr. Justice Jayanta Kumar Biswas.**  
Judgment on: June 11, 2010.  
W.P. No. 11840 (W) of 2010  
**Sabujlata Jana**  
v.  
**The State of West Bengal & Ors.**

**POINTS**

Recovery of amount – Petitioner was a secondary school teacher – Pension payment order recorded recovery of amount – No steps taken by the petitioner for refund of the money – Writ Petition for refund of the same – Delay , if a relevant factor in approaching Writ Court – Constitution of India, Article 226

**FACTS**

The petitioner in this art.226 petition dated June 8, 2010 is seeking a mandamus commanding the respondents to refund her Rs.67,301 recovered from her retirement benefits on account of overpayment. The petitioner was a secondary school teacher. She retired from service on May 31, 2004. The pension payment order was issued on May 20, 2004. In the order the recovered amount was recorded. The petitioner received the benefits in terms of the pension payment order without any protest. She never demanded refund of the recovered amount. She has produced a copy of a representation dated May 3, 2010 claiming that she sent it calling upon the assistant director of provident fund and group insurance and the district inspector of schools to refund her the recovered amount.

**HELD**

The petitioner received the benefits in terms of the pension payment order without any protest. Certain undisclosed thing appears to have prompted her to make the representation all of a sudden. It is evident that it was made just for the purpose of bringing this grossly belated petition. Even if, the amount was wrongfully recovered by the state, she cannot be permitted to approach the high court under art.226 around six years after the recovery. The decision to recover was taken when the petitioner was in service. She is not entitled to any relief from the writ court. Para 6

Mr Ramdulal Manna and Mr Milan Kumar Maity, advocates, for the petitioner.

Mr C.F. Ali, advocate, for the state.

**THE COURT: -** 1) The petitioner in this art.226 petition dated June 8, 2010 is seeking a mandamus commanding the respondents to refund her Rs.67,301 recovered from her retirement benefits on account of overpayment.

2)The petitioner was a secondary school teacher. She retired from service on May 31, 2004. The pension payment order was issued on May 20, 2004. In the order the recovered amount was recorded.

3)The petitioner received the benefits in terms of the pension payment order without any protest. She never demanded refund of the recovered amount. She has produced a copy of a representation dated May 3, 2010 claiming that she sent it calling upon the assistant director of provident fund and group insurance and the district inspector of schools to refund her the recovered amount.

4)The question is whether the petition involves any live issue. Counsel submits that since the respondents wrongfully recovered the amount, the question of delay is irrelevant. He says that in para.6 the petitioner has stated that she met the officials of the state several times requesting them to supply her information about the recovery.

5)In my opinion, the petition does not involve any live issue. Facts stated in para.6 and the contents of the representation are curiously identical with the ones stated in para.6 of and a representative dated May 10, 2010 produced with W.P. No. 11841 (W) of 2010 (Balai Chandra Pramanik v. The State of West Bengal & Ors.) moved by the same advocate.

6)The petitioner received the benefits in terms of the pension payment order without any protest. Certain undisclosed thing appears to have prompted her to make the representation all of a sudden. It is evident that it was made just for the purpose of bringing this grossly belated petition. Even if, the amount was wrongfully recovered by the state, she cannot be permitted to approach the high court under art.226 around six years after the recovery. The decision to recover was taken when the petitioner was in service. She is not entitled to any relief from the writ court.

7)For these reasons, the petition is dismissed. No costs. Certified xerox.  
ss. (Jayanta Kumar Biswas, J.)