

Constitutional Writ
Present: The Hon'ble Mr. Justice Jayanta Kumar Biswas.
Judgment on: June 11, 2010.
W.P. No. 11841 (W) of 2010
Balai Chandra Pramanik
v.
The State of West Bengal & Ors.
Judgment on: June 11, 2010.

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 him Rs.79,960 recovered from his retirement benefits on account of overpayment. The petitioner was a primary school teacher. He retired from service on January 31, 1994. The pension payment order was issued on July 19, 2001. In the order the recovered amount was recorded. The petitioner received the benefits in terms of the pension payment order without any protest. He never demanded refund of the recovered amount. He has produced a copy of a representation dated May 10, 2010 bearing his left thumb impression claiming that he sent it calling upon the assistant director of provident fund and group insurance and the district inspector of schools to refund him 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 him 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, he cannot be permitted to approach the high court under art.226 around nine years after the recovery. He 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 him Rs.79,960 recovered from his retirement benefits on account of overpayment.

2)The petitioner was a primary school teacher. He retired from service on January 31, 1994. The pension payment order was issued on July 19, 2001. In the order the recovered amount was recorded.

3)The petitioner received the benefits in terms of the pension payment order without any protest. He never demanded refund of the recovered amount. He has produced a copy of a representation dated May 10, 2010 bearing his left thumb impression claiming that he sent it calling upon the assistant director of provident fund and group insurance and the district inspector of schools to refund him 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 he met the officials of the state several times requesting them to supply him information about the recovery.

5)In my opinion, the petition does not involve any live issue. Curiously the petitioner claims that he sent a representation dated May 10, 2010 putting his left thumb impression. He was a primary school teacher. Facts stated in para.6 and the contents of the representation are curiously identical with the ones stated in para.6 of and a representation dated May 3, 2010 produced with W.P. No. 11840 (W) of 2010 (Sabujlata Jana 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 him 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, he cannot be permitted to approach the high court under art.226 around nine years after the recovery. He is not entitled to any relief from the writ court.

7)For these reasons, the petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J.)