IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 25827 of 2024

Smt. Suchitra Jana
Vs.
The State of West Bengal & Ors.

For the writ petitioner	:-	Mr. Sujit Saha, Adv.
For CSTC	:-	Mr. N.C. Bihani, Sr. Adv. Ms. Sahina Sumi, Adv.
Heard on	:-	10.04.2026
Judgment on	:-	10.04.2026

Amrita Sinha, J.:-

1. Report in the form of an affidavit filed by the Calcutta State Transport Corporation (CSTC) in Court today be retained with the records.

2. It appears therefrom that on account of erroneous fixation under ROPA 1998 and ROPA 2009 for the period from June 2002 to May 2018, the employee was paid a sum of Rs.2,68,846/- in excess. The same was detected after expiry of the employee on 10th May, 2018. The wife has challenged the recovery process and has prayed for refund of the amount deducted.

3. Learned advocate for the petitioner refers to the judgment delivered by the Hon'ble Supreme Court in the matter of ***State of Punjab & Ors. v. Rafiq Masih (White Washer)*** reported in ***(2015) 4 SCC 334*** wherein the Court laid

2026:CHC-AS:598

down the situations where recoveries by the employers would be impermissible in law.

4. It has been categorically laid down that recovery from the employees belonging to Class-III and Class-IV (Group-C and Group-D) service is impermissible. Recovery for any amount which has been paid in excess of five years is also impermissible.

5. The husband of the petitioner was serving in a Group-D post and the period for which the excess payment has been made is in excess of five years. In fact, the employee enjoyed the excess payment for nearly sixteen years prior to his death. The authority could not have deducted the aforesaid amount from the death benefit of the retired employee.

6. In view of the above, the action taken by the respondents by deducting the excess amount from the gratuity paid to the petitioner cannot be accepted in law.

7. The authority is directed to refund the sum of Rs.2,68,846/- which was recovered from the Gratuity amount of the employee on account of over-payment at the earliest, but positively within a period of eight weeks from the date of communication of this order.

8. As the amount was erroneously deducted from the benefit of the employee, the aforesaid amount shall be refunded with simple interest calculated at the rate of six percent per annum from the due date till the date of actual payment.

2026:CHC-AS:598

9. The writ petition stands disposed of.

10. All parties shall act on the basis of a server copy of this judgment duly downloaded from the official website of this Court.

11. Urgent photocopy of the certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)