

11.07.2025
(D/L-78)
Ct. No.4
(B.K.N.)

W.P.C.T. 7 of 2025

**The Union of India & Others
Vs.
Nabin Biswas**

Mr. Swapan Kumar Nandy,
Mr. Amal Kumar Datta
...for the Petitioners/U.O.I.

1. Heard learned counsel for the Railways.
2. The applicant before the Tribunal was a retired Group-C employee, the date of retirement being 31.12.2022. Just one month prior to his retirement, in November, 2022 the respondents realized that the pay of the petitioner was wrongly fixed as Rs. 20,690/- instead of Rs. 20,120/- per month, with effect from 01.07.2011. Just one month before his retirement the authorities sought to rectify such error.
3. The authorities further proceeded to make recovery of the excess amount paid, from the amount due to the petitioner under the head death cum retirement gratuity. An amount of Rs. 4,37,061/- was recovered.
4. The applicant thus approached the Central Administrative Tribunal, Kolkata Bench in O.A. No. 1279 of 2023 being aggrieved by the action of the respondent authorities. The Tribunal by its order dated 18.07.2024 has interfered with the recoveries

made from the applicant and directed for refund of the amount recovered.

5. Such conclusion and order of the Tribunal is founded on consideration of decision of the Apex Court in the case of ***State of Punjab & Ors. –Vs.- Rafiq Masih*** reported in ***2015 (4) SCC 334*** wherein the Apex Court has enumerated certain circumstances by way of illustration wherein a recovery can be said to be causing a hardship. The case of the petitioner was found to be covered by the said decision since the petitioner was a Group-C employee and had received the benefit for eleven years, much more than the five years contemplated in the judgment of the Apex Court.
6. Another aspect of the matter was that the recovery was made just one month prior to his retirement.
7. The conclusion of the Tribunal being founded on a consideration of the recovery causing hardship in terms of the decision of the Apex Court in the case of ***Rafiq Masih (supra)***, we find no reason to interfere with the order dated 18.07.2024 passed by the Tribunal in O.A. No. 1279 of 2023.
8. The writ petition is dismissed.

(Madhuresh Prasad, J.)

(Ajay Kumar Gupta, J.)