

ML-220
27.11.2025
Ct. No.18
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 14496 of 2024

Swapna Mukhopadhyay
v.
The State of West Bengal & Ors.

Mr. Banshi Badan Maity
... For the petitioner

Ms. Soumi Guha Thakurata
... For the State

1. Affidavit of service filed in Court today is taken on record.
2. The husband of the petitioner served as an approved Headmaster of a school. He died-in-harness on 28th February, 2021. The pension papers of the employee was prepared by the office of the employer and it was found that certain amount was overdrawn by the employee on account of wrong fixation of his pay.
3. The widow of the employee has approached this Court for refund of the alleged amount which has been found to be overdrawn.
4. The petitioner relies on the judgment delivered by the Hon'ble Supreme Court in the matter of **State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.** reported in **(2015) 4 SCC 334** in support of the submission that the refund could not have been adjusted from the pensionary dues.

5. I am of the opinion that the ratio of Rafiq Masih (supra) will not be applicable in the facts and circumstances of the instant case in view of the fact that the employee still had sometime left in his service career within which the employer would have got a chance to rectify the error in making excess payment and the money could have been adjusted during the service tenure of the employee.
6. As the employee died in-harness, the employer was not in a position to take steps for correcting any error in his pay fixation.
7. In view of the above, the prayer of the petitioner for refund of the alleged overdrawn amount cannot be allowed.
8. The writ petition fails and is hereby dismissed.
9. The instruction forwarded by the District Inspector of Schools (Secondary Education), Birbhum signed on 19th November, 2025 be retained with the records.
10. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.
11. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Amrita Sinha, J.)