06.11.2025
Item No. 09
Ct. No. 07
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18965 of 2025
Tulsi Pandit
vs.
State of West Bengal & ors.

Mr. Kalyan Kumar Panda
Mr. Uttam Kumar Roy
... for the petitioner

Mr. Uttam Kumar De
... for the State

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks direction upon respondent no. 2, the Director of Pension, Provident Fund & Group Insurance, Government of West Bengal for refund of the overdrawal amount together with interest.
3. The petitioner contends that her husband was an Assistant Teacher in Salikona Primary School, Bankura. The petitioner's husband retired on 31st December, 1992. The pension payment order was issued in favour of the husband of the petitioner on 11th March, 2002. The husband of the petitioner was granted monthly pension with effect from 1st January, 1993. On 23rd June, 2023, the husband of the petitioner expired. The authority concerned has deducted overdrawal in pay of Rs. 104936/- from the

pensionary benefits of the petitioner's husband. Being aggrieved by such action, the petitioner has filed the present writ petition.

4. Mr. Kalyan Kumar Panda, learned advocate appearing for the petitioner relying on the decision of the Hon'ble Supreme Court in the case of ***State of Punjab & ors. vs. Rafiq Masih (White Washer) & ors.*** reported in ***(2015) 4 SCC 334*** submits that it is impressible in law to deduct overdrawal from the pensionary benefits after retirement of the employee. He seeks for appropriate direction upon respondent no. 2, the Director of Pension, Provident Fund & Group Insurance, Government of West Bengal for refunding the said overdrawal together with interest. In support of his contention, he relies on a decision of the Coordinate Bench of this Court passed in ***Rama Chatterjee versus The State of West Bengal & ors.*** in ***WPA 18422 of 2025***.

5. Mr. Uttam Kumar De, learned advocate representing the State does not raise any objection and leaves the matter to the discretion of the Court.

6. The pension payment order (annexure P-2) shows that an amount of Rs. 1,04,936/- has been deducted as overdrawal in pay etc. The employee concerned has retired on 31st December, 1992. The aforesaid deduction has been made after lapse of a considerable period of time. At this stage, it will be appropriate to

reproduce the relevant paragraph no. 18 from *Rafiq Masih (supra)* as hereunder:

> *"18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employees, would be impermissible in law:*
>
> *(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*
>
> *(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
>
> *(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
>
> *(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
>
> *(v) In any other case, where the court arrives at the conclusion, that recovery if made from the 3 employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.*
>
> *It is clear from the above that a Writ of Mandamus is prayer for is maintainable in the facts of the present case.*
>
> *The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer are accordingly directed to release the amount of Rs.1,38,976/- to the petitioner along with interest @ 8 % per annum with effect from the date of issuance of the pension payment order which should be made to the petitioner within a period of eight weeks from the date of communication of this order.*
>
> *The writ petition is disposed of, however, no order as to costs.*
>
> *Urgent certified website copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities."*

7. In the light of the proposition laid down by the Hon'ble Supreme Court in *Rafiq Masih (supra)* and the decision of the Coordinate Bench in *Rama Chatterjee (supra),* this Court is of the view that the petitioner is entitled to the refund of the overdrawal amount together with interest.

8. Accordingly, respondent no. 2, the Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no. 4, the Treasury Officer, Bishnupur are directed to release the amount of Rs. 1,04,936/- to the petitioner together with interest @ 8% per annum from the date of issuance of the pension payment order till the date of actual refund within a period of eight weeks from the date of communication of this order.

9. Learned advocate for the petitioner is directed to communicate this order to respondent no. 2, the Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no. 4, the Treasury Officer, Bishnupur for necessary compliance.

10. With the above observations, the writ petition being no. ***WPA 18965 of 2025*** stands disposed of.

11. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.

12. Consequently, connected applications, if any, also stand disposed of.
13. Interim orders, if any, stand vacated.
14. There will be no order as to costs.
15. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)