

06.11.2025
Sl. No.12
Ct. No.7
gd

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA/19044/2025
A. CHANDRA KALA
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Sourav Mitra
Ms. Sreyasree Choudhury
...for the Petitioner.

Ms. Debarati Sen (Bose)
...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 the respondent authorities to repay the alleged overdrawn amount of Rs.45012/- to the petitioner along with interest at the rate of 18% per annum from the date of death of the concerned employee till the date of actual disbursement.
3. The petitioner contends that her husband was an Assistant Teacher in Telugu Vidyapitham Primary School, Nimpura in the district of Paschim Medinipur and died in harness on 9th May, 2022. On 11th July, 2024 Pension Payment Order was issued upon deposit of the overdrawn amount of Rs.45012/-. Hence, this writ petition for refund of the overdrawn amount.

4. Mr. Sourav Mitra, learned advocate for the petitioner submits relying on the decision of the Hon'ble Supreme Court passed in ***State of Punjab And Others versus Rafiq Masih (White Washer)*** reported in **(2015) 4 SCC 334** submits that the authority concerned ought not to have deducted the amount of Rs.45012/- while granting family pension in favour of the petitioner. To buttress his contention, he relies on the decision of the Hon'ble Supreme Court passed in ***Thomas Daniel versus State of Kerala & Ors.*** reported in **2022 LiveLaw (SC) 438** as well as on the decision of a Coordinate Bench in ***Mousam Yara Begam versus The State of West Bengal & Ors.*** in **WPA 30186 of 2024**. In the light of the aforesaid submission, he prays for refund of the aforesaid amount together with interest.
5. Learned advocate for the State leaves the matter to the discretion of the Court.
6. The only question which falls for consideration in the present writ petition is whether the petitioner is entitled to refund of the overdrawn amount.
7. In *Rafiq Masih (White Washer) (supra)*, the Hon'ble Supreme Court observed as follows:-

"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 employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class II and Class IV service (or Group C and Group D service).

(ii) the retired Recovery from 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 (v) court arrives at the conclusion, that recovery if made from the 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."

8. The decision in *Rafiq Masih (White Washer) (supra)* is also relied upon in *Thomas Daniel (supra)* and *Mousam Yara Begam (supra)*.
9. In the light of the propositions laid down by the Hon'ble Supreme Court in the aforesaid decisions, this court is of the view that the petitioner is entitled to the refund of the overdrawn amount.
10. Accordingly, the respondent no.2, Director of Pension, Provident Fund and Group Insurance and the respondent no.3, Treasury Officer, Kharagpur are directed to release the amount of Rs.45012/- to the petitioner together with interest at the rate of 8% per annum with effect from the date of deposit of the said amount i.e. 1st February, 2024 till the actual disbursement of the amount within a period of eight weeks from the date of communication of this order.
11. Petitioner is directed to communicate this order to the respondent nos.2 and 3 for necessary compliance.

12. With the aforesaid, the writ petition being **WPA 19044 of 2025** is disposed of.
13. Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied.
14. There shall be no order as to costs.
15. Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)