

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

9 16.12.2025
Sc Ct. no.14

WPA 19060 OF 2025
with
I.A. No.CAN 1 of 2025
(Application for appropriate order)

Monjur Rahaman Mondal
Vs.
State of West Bengal & Ors.

Mr. Samim Ahammed
Mr. Arka Maiti
Mr. Asif Ikbai Baidya
Md. Nasirul Haque
Ms. Reshma Khatun.

.... For the Petitioner /
Applicant

Mr. Sagnik Bhattacharya

.... For the Respondents
State

1. By the present writ petition the petitioner seeks direction upon the respondent authorities to forthwith process and disburse the pension and all other retiral benefits to the petitioner under the DCRB Scheme, 1981 without any further delay.

2. The petitioner contends that he retired as a Head Teacher of a primary school on 30th September, 2024 upon superannuation. The petitioner is having physical disability. The petitioner exercised his option under the provision of a Revised Pay Structure (ROPA), 2019 and was drawing Basic Pay of Rs.52,200/-. Since the pension and other retiral dues were not paid to the

petitioner following the date of his retirement, the petitioner has preferred the present writ petition.

3. Mr. Samim Ahammed, learned Advocate appearing for the petitioner submits that as per Clause 6 of the Notification dated 13th December, 2019 even if the option is not exercised, the pay structure will be given effect from 1st January, 2016. During the pendency of the writ petition, the District Inspector of School (PE), North 24-Parganas has raised a claim of overdrawn amount of Rs.94,062/- vide its letter dated 15th August, 2025, calculated on the basis of revised pay with effect from 1st January, 2016. As per the settled proposition of law, the overdrawn amount after retirement cannot be asked to be refunded. In support of his contention learned Advocate for the petitioner relies on a decision of the Hon'ble Supreme Court in **Jogeswar Sahoo and Others versus District Judge, Cuttack and Others** reported in **2025 SCC OnLine 724**. An interlocutory application being CAN 1 of 2025 is filed for setting aside the order of Sub-Inspector of Schools for directing for refunding the overdrawal amount. He seeks for appropriate direction upon the respondent authorities for disbursement of pension and retiral benefits in favour of the petitioner forthwith.

4. Mr. Sagnik Bhattacharya, learned Advocate for the State/respondents submits that upon reviewing the case of the petitioner it has been detected that there is an

overdrawn amount of Rs.94,062/-. Accordingly, petitioner was directed to refund the said amount so that the pension and other retiral dues of the petitioner can be processed and disbursed in accordance with law.

5. The petitioner has retired from service on 30th September, 2024. Since the pension and retiral dues were not paid to the petitioner, he has filed the writ petition on 14th August, 2025. By a letter dated 15th August, 2025, the Sub-Inspector of Schools, Hasnabad Circle, North 24 Parganas has raised a claim of overdrawn amount of Rs.94,062/- upon review. Now, whether such refund is permissible under law is to be examined.

6. In order to examine such issue, it will be apposite to reproduce the paragraph 18 of the decision of the Hon'ble Supreme Court passed in ***State of Punjab versus Rafiq Masih (White Washer)*** reported in **(2015) 4 SCC 334**.

"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 payment. Be that as it may, based on the decisions 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 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 employees, 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."*

7. The proposition in *Rafiq Masih (supra)* has also been followed in *Jogeswar Sahoo (supra)* by the Hon'ble Supreme Court

8. In view of the settled proposition of law as laid down by the Hon'ble Supreme Court as aforesaid, the claim for refund of overdrawn amount of Rs.94,062/- is impermissible.

9. As such, the letter dated 15th August, 2025 of Sub-Inspector of Schools, Hasnabad Circle, North 24 Parganas is hereby set aside.

10. The application being I.A. No. CAN 1 of 2025 also stands disposed of.

11. Accordingly, the respondent no.2, Directorate of Pension, Provident Fund & Group Insurance and the respondent no.3, District Inspector of Schools (PE), North 24 Parganas are directed to take appropriate steps for disbursement of pension and other retiral dues in favour of the petitioner within a period of eight weeks from the date of communication of this order.

12. With the above observations and directions this writ petition is disposed of, without any order as to costs.

13. Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

14. All connected applications, if any, stand disposed of.

15. Interim orders, if any, stand vacated.

16. The parties shall act on the server copy of this order duly downloaded from the official website of this Court.

17. 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.)