

10.11.2025
Sl. No.10
Ct. No.7
ss

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

W.P.A. No. 20680 of 2025

Sairabanu

Versus

The State of West Bengal & Ors.

Ms. Sudipa Banerjee

...for the Petitioner.

Ms. Prabhleen Bharara

...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 refund the alleged overdrawn amount of Rs.1,25,453/- together with interest @ 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 of Margram High Madrasah at P.O. Margram, District Birbhum who died in harness on 13th February, 2022. The petitioner was asked to deposit the overdrawn amount of Rs.1,25,453/- before the Treasury Officer, Rampurhat. Pursuant thereto on 23rd May, 2022 the petitioner deposited the said amount and pension payment order was issued on 3rd July, 2024 in favour of the petitioner. The petitioner

seeks for refund of the overdrawn amount. The authorities under the law ought not to have directed the petitioner to deposit the overdrawn amount. Challenging such action of the respondent authorities, the petitioner has preferred the present writ petition.

4. Ms. Sudipa Banerjee, learned Advocate for the petitioner relying on the decision of the Hon'ble Supreme Court in ***State of Punjab & Ors. versus Rafiq Masih (White Washer) & Ors.*** reported in ***(2015) 4 SCC 334*** submits that it is impracticable in law to recover the overdrawn amount from the employee after his retirement. She also places reliance on a decision of a co-ordinate Bench of this Court in ***Y Rajeswari versus The State of West Bengal & Ors. (In Re: WPA 6804 of 2024)***. She seeks for appropriate direction upon the respondent No.2 Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and respondent no.3, Treasury Officer, Rampurhat respectively to refund the overdrawn amount with interest in favour of the petitioner.
5. Ms. Prabhleen Bharara, learned Advocate for the State leaves the matter to the discretion of this Court.
6. The only issue which falls for consideration is whether the respondent authorities were justified to direct the petitioner to deposit the overdrawn amount or not.

7. In this regard, it would be apposite to reproduce the relevant portion of the proposition of Hon'ble Supreme Court in *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 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. In view of the above proposition of Hon'ble Supreme Court and the decision in *Y Rajeswari (supra)*, this Court is of the view that the petitioner is entitled to relief, as prayed for.

9. Accordingly, the respondent No.2, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and also the concerned Treasury Officer being the respondent No.3 are directed to release the said amount of Rs.1,25,453/- in favour of the petitioner together with interest @ 8% per annum from 23rd May, 2022 i.e. the date of deposit till the date of actual payment. Such payment be made

within a period of eight weeks from the date of communication of this order.

10. Learned Advocate for the petitioner is directed to communicate this order to the concerned respondent authorities for necessary compliance.
11. With the above direction, the writ petition being **WPA 20680 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.
16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. 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.)