

10.12.2025

Sl.No. 40
Ct.No. 32
(Samar)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 17319 of 2009

Abhedananda Mondal & Ors.

Vs.

The State of West Bengal and ors.

Mr.Lal Ratan Mondal,
Mr. P. Sarkar,

.... For the petitioner.

Mr. Argha Chowdhury,

.... For the State.

1. Affidavit-of-service filed on behalf of the petitioner, intimating the learned counsel appearing on behalf of the State, today is taken on record.
2. The instant writ petition, the petitioner prays for direction upon the respondent to pay the petitioner an amount of Rs. 38,055/- which was illegally deducted from his Death-cum-Retirement Gratuity along with interest 12% per annum.
3. It is the specific case of the petitioner that he was an Assistant Teacher of Parulia U.S. Vidyabhavan High School and on attaining the age of superannuation he retired from his service on 31st August 2008.
4. The pension payment order (PPO) being No. MSD/S/S/8354 dated 26.09.2008 was issued

in favour of the petitioner under the Memo No. 4820/S dated 26.09.2008 from where it has found that an amount of Rs.38,055/- has been arbitrarily deducted under the heading of “Overdrawal in pay” etc. and said amount of Rs. 38,055/- has been surprisingly adjusted against the petitioner’s gross Death-cum-Retirement Gratuity amounting to Rs. 2,50,000/- (Vide Column 7 of the petitioner’s P.P.O).

5. It is submitted by the learned counsel appearing on behalf of the petitioner that such deduction is not permissible in law, in view of the judgment passed by the Hon’ble Supreme Court in the case of ***State of Punjab and Others Vs. Rafiq Masih reported in 2015 (4) SCC 334***. In the said judgment the Hon’ble Supreme Court held that the recovery would be impermissible in law from employees who are due to retire within of year of the order of recovery or when the excess payment has been made for a period in excess of 5 years before the order of recovery is issued.
6. Having heard the learned counsel for the respective parties and upon perusal of the aforesaid judgment cited by the petitioner, this Court is fully convinced and the same

proposition in the present case is squarely applicable.

7. In the above backdrop, the respondent no. 5, the District Inspector of Schools (Secondary Education) Murshidabad is directed to refund the amount of Rs. 38,055/- which was illegally deducted from his Death-cum-Retirement Gratuity along with interest @ 6 % per annum till final disbursement and the same amount shall be paid within a period of two months from the date of communication of this order, in default, the interest will be charged @ of 7 % per annum.
8. with the above observation WPA 17319 of 2009 is disposed without any order as to costs.
9. All parties shall act in terms of the server copy of this order duly downloaded from the official website of this Court.
10. Urgent certified photocopy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)