

**1809
2025**

THURSDAY

COURT : MB-07
ITEM : AD-03
STAUTS : DO
ID : 266057
AR : NANDY

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

WPA 24146 OF 2024

SWAPAN RAKSHIT

VS.

THE STATE OF WEST BENGAL & ORS.

MR. ARUNAVA PATI, ADVOCATE

MR. AMITABHA BHATTACHARYA, ADVOCATE

.....for the Petitioner

MR. JAYANTA SAMANTA, ADVOCATE

MR. TAPAS BALLAV MANDAL, ADVOCATE

.....for the State

1. The present writ petition has been filed seeking a direction upon the concerned respondent to refund a sum of Rs. 3,73,284/-, along with interest @ 8% per annum, allegedly overdrawn from the petitioner during his service tenure due to erroneous fixation of pay.
2. Mr. Bhattacharya, learned Advocate representing the petitioner, submits that the petitioner, after rendering service as Headmaster in Keshra High School, PO Mandal Keshra, District-Bankura, retired with effect from 31.01.2024 upon attaining the age of superannuation. He further submits that all necessary papers and documents were forwarded to the Government for release of pension and other retiral benefits. However, the same were withheld on the plea that the petitioner had overdrawn a sum of Rs. 3,73,284/-during his service tenure until attaining the age of superannuation. The petitioner was coerced into depositing that amount as a pre-condition for the release of his retiral benefits, including pension.
3. Faced with this situation, the petitioner was compelled to deposit the said amount, following which the Pension Payment Order (PPO) was issued and other retiral benefits were released to the petitioner. Citing the decision reported in (2015) 4 SCC 344 [State of Punjab & Ors. vs. Rafiq Masih (White Washer)], the petitioner submits that such recovery cannot be made from a retired employee or an employee who retired within one year from the date of the recovery order. He submits that, in view of the decision rendered in Rafiq Masih (White Washer) (supra), the authority cannot recover the said amount from the petitioner. He therefore

prays for a direction upon the concerned respondents to refund the amount along with interest accrued thereon at the rate of 8% per annum.

4. Mr. Samanta, learned Advocate representing the State, submits that since the petitioner had overdrawn the amount due to wrong fixation of pay, the authority rightly directed him to deposit the said amount. The petitioner complied with such direction without any demur and, therefore, cannot now claim a refund.
5. Heard the learned Advocate for the respective parties. Perused the materials on record.
6. Undoubtedly, the demand for the overdrawn money was made after the petitioner's retirement, i.e., after the Master and Servant relationship between the petitioner and the concerned respondents had ceased. The petitioner retired from service on 31.01.2024 and was thereafter compelled to deposit the amount as a pre-condition to receive the pension and other retirement benefits.
7. In view of the decision in Rafiq Masih (White Washer) (supra), recovery of any amount claimed to have been overdrawn by an employee during his service cannot be permitted after his retirement, or even from an employee who is due to retire within one year from the date of such claim. Applying the proposition laid down in the aforementioned decision, such recovery cannot be held to be legally sustainable.
8. Accordingly, I direct respondent no. 2 to refund the amount of Rs. 3,73,284/-along with interest @ 6% per annum accrued thereon from the date of deposit until the date of actual payment.
9. With these order and observations, **WPA 24146 of 2024** is **disposed of**.

(PARTHA SARATHI CHATTERJEE, J.)

