

**High Court At Calcutta
In the Circuit Bench at Jalpaiguri
Constitution Writ Jurisdiction
Appellate Side**

W.P.A. 762 of 2025

**Samarendra Narayan Ray
-versus
The State of West Bengal & Ors.**

**Mr. Sanjay Mazoomdar
Mr. Anirban Chakraborty
...For the Petitioner.**

**Mr. Sumit Kumar
Mr. Bikash Singha
...For the State.**

1. Affidavit-of-service filed in Court today is taken on record.
2. The petitioner retired from service as Assistant Teacher on 31.08.2023. Prior to issuance of Pension Payment Order he was directed to refund a sum of Rs.3,71,552/- on account of overdrawal pay which he deposited through Treasury Challan on 16.05.2023. Pension Payment Order was issued in his favour on 23.09.2023.
3. The petitioner submits that the said amount could not have been deducted immediately prior to retirement.
4. In view of the order passed by the Hon'ble Supreme Court in the matter of **State of Punjab & Ors. -vs- Rafiq Masih (White Washer) & Ors. reported in (2015) 4 SCC 334** recovery from the retired employees or the employees who are due to retire within one year of the order of recovery is impermissible. Recovery from the employee where

the excess payment has been made for a period in excess of five years before the order of recovery is issued, is also impermissible.

5. In line with the above ratio laid down by the Hon'ble Supreme Court, the recovery that has been made from the terminal dues of the petitioner cannot be accepted by the Court.
6. The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the concerned District Inspector of Schools (P.E.) and the concerned Treasury Officer are directed to refund the deducted amount of Rs.3,71,552/- to the petitioner along with interest @5% with effect from the date of issuance of the Pension Payment Order till the date of actual payment at the earliest but positively within a period of eight weeks from the date of communication of this order.
7. The writ petition stands disposed of.
8. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)