

08.04.2026
Sl. No.25
Ct. No.14
gd

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

WPA/881/2026
MD. UMAR FARUQUE
VS
STATE OF WEST BENGAL AND ORS.

Ms. Sudipa Banerjee

...for the Petitioner.

Mr. Benazir Ahmed

...for the State.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Statement of facts filed by the State furnished by District Inspector of Schools, Secondary Education, Malda dated 24th February, 2026 is taken on record.
3. By the present writ petition, the petitioner seeks direction upon the respondent authorities to release the alleged overdrawn amount of Rs.3,05,237/- together with interest at the rate of 18% per annum from the date of retirement till the date of actual disbursement.
4. The petitioner contends that he was an approved Head Master of Osmania High Madrasah, P.O.- Mangalbari, District-Malda. The petitioner retired from service on superannuation on 30th September, 2022. On the verge of retirement the petitioner was asked to refund the alleged overdrawn of salary of

Rs.3,05,237/- by the District Inspector of Schools, Secondary Education, Malda for sanctioning of the pensionary benefits. In compliance to such direction, the petitioner deposited the aforesaid amount on 17th February, 2022. The pension payment order was issued in favour of the petitioner on 2nd May, 2023. The amount of the alleged overdrawn salary as directed by the District Inspector of Schools, Secondary Education, Malda is in excess of five years before the order of recovery and as such is impermissible in law. Hence, this writ petition.

5. 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 the alleged overdrawn of salary is for the period from 1st July, 2010 to 28th February, 2022 which is in excess of five years before the order of recovery and as such the recovery is impermissible in law. She seeks for appropriate order.
6. On the contrary Mr. Benazir Ahmed, learned advocate for the State submits that the petitioner is not entitled to receive any interest on the aforesaid amount since the petitioner himself agreed to deposit the same.
7. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether the direction issued by the respondent

authorities particularly District Inspector of Schools, Secondary Education, Malda to deposit the alleged overdrawn of salary is sustainable or not.

8. In order to examine the aforesaid issue, it would be apposite to reproduce the relevant paragraph no.18 of the decision 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) 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."

9. Admittedly, the period of the alleged overdrawn amount pertains to 1st July, 2010 to 28th February, 2022. The aforesaid period is in excess of five years before the date of the order of recovery. Bearing in mind the proposition of Hon'ble Supreme Court in *Rafiq Masih (supra)* such recovery/direction issued by the District Inspector of Schools, Secondary Education, Malda is impermissible in law.
10. Accordingly, the respondent No.2, Director of Pension and Provident Fund and Group Insurance and the

concerned Treasury Officer are directed to release the said amount of Rs.3,05,237/- together with interest @ 8% per annum in favour of the petitioner from the date of deposit till the date of actual disbursement. Such payment shall be made within a period of 12 weeks from the date of communication of this order.

11. With the above direction, the writ petition being **WPA 881 of 2026** 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.)