

08.04.2026
Sl. No.26
Ct. No.14
gd

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

WPA/883/2026

MAMTAZ ALI
VS
STATE OF WEST BENGAL AND ORS.

Ms. Sudipa Banerjee

...for the Petitioner.

Ms. Neelam Singh

...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 release the alleged overdrawn amount of Rs.87,537/- together with interest at the rate of 18% per annum from the date of retirement till the date of actual disbursement.
3. The petitioner contends that he was an approved Head Master of N.T.B.K. High Madrasah, P.O.-Marnai, District-Uttar Dinajpur. The petitioner retired from service on superannuation on 30th June, 2023. While in service, the petitioner was asked to refund the alleged overdrawn of salary of Rs. 87,537/- by the District Inspector of Schools (S.E.), Uttar Dinajpur for sanctioning of the pensionary benefits. In compliance

to such direction, the petitioner deposited the aforesaid amount on 27th January, 2020. The pension payment order was issued in favour of the petitioner on 16th June, 2023. The alleged overdrawn of salary amount as directed by the concerned District Inspector of Schools (S.E.), to be deposited by the petitioner is impermissible in law. Hence, this 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 the direction of the respondent authorities to deposit the alleged overdrawn of salary is impermissible in law. She seeks for appropriate order.
5. Despite service, none appears on behalf of the State.
6. Ms. Neelam Singh, learned advocate, who usually appears on behalf of the State-respondent is requested to appear in this matter. The appearance of Ms. Singh be regularised by the competent authority.
7. Learned advocate for the petitioner is directed to serve a copy of the writ petition along with its annexure upon Ms. Singh, learned advocate for the State.
8. Ms. Singh, learned advocate for the State submits that the petitioner deposited the overdrawn amount without any demur, as such the petitioner cannot challenge the same. She seeks for dismissal of the writ petition.

9. 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 (S.E.), Uttar Dinajpur to deposit the alleged overdrawn of salary is sustainable or not.
10. In order to examine such issue it would be apposite to reproduce the relevant portion of paragraph 18 of **Rafiq Masih (supra)** as follows :

“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 payment. Be that as it may, based on the decisions 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 III and Class IV service (or Group C and Group D service).*
- (ii) Recovery from the retired 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 court arrives at the conclusion, that recovery if made from the employees, 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.”*

11. It is found from the annexure “P-1” at page 18 of the writ petition that the period of the alleged overdrawn of salary pertains to July, 2016 to December, 2019 and the amount has been deposited on 27th January,

2020. The petitioner retired from service on superannuation on 30th June, 2023. Neither the amount is in excess of five years before the order of recovery is issued nor the order of recovery has been passed within one year just prior to retirement of the employee. The amount has been deposited in the year 2020 which is much prior to his retirement. Thus, the writ petition falls short of merit.

12. Accordingly, the writ petition being **WPA 883 of 2026** stands dismissed.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.
15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.
17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
18. 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.)