

08.04.2026
Item No. 27
Ct. No. 14
AN

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

**WPA 951 of 2026
Md. Golam Rasul
vs.
State of West Bengal & ors.**

Ms. Sudipa Banerjee

... for the petitioner

Ms. Indrani Nandi

... 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 for refund of the alleged overdrawal amount of salary of Rs. 12,55,960/- together with interest at the rate of 18% per annum from the date of deposit of the alleged overdrawn amount till the date of actual payment.
3. The petitioner contends that he was an approved Assistant Teacher of Harbhanga High Madrasah, Post Office Bazargaon, District Uttar Dinajpur. The petitioner retired from service on 31st December, 2025. On the verge of retirement, the petitioner was directed by the concerned District Inspector of Schools (S.E) to deposit the excess amount of overdrawn salary for sanctioning of the pensionary benefits. Accordingly, the petitioner deposited the aforesaid amount on 5th

August, 2025 before the concerned Treasury Office. Subsequent thereto, the pension payment order was issued in favour of the petitioner on 18th December, 2025. The period of alleged overdrawn amount in excess of five years before the date of order of recovery which is impermissible in law. Hence this writ petition.

4. Ms. Sudipa Banerjee, learned advocate appearing for the petitioner submits that the period of overdrawn of salary of Rs. 12,55,960/- pertains to August, 2011 to July, 2025 which is excess of five years before the order of recovery is issued and, therefore, is impermissible in law. To buttress her contention, she relies on the decision of the Hon'ble Supreme Court in the case of ***State of Punjab & ors. versus. Rafiq Masih (White Washer) & ors.*** reported in ***(2015) 4 SCC 334***. She seeks for appropriate orders.
5. Despite service none appears on behalf of the State.
6. Ms. Indrani Nandi, learned advocate who usually represents the State is requested to appear in this matter on behalf of the State. Let her appointment be regularised by the competent authority.
7. Petitioner is directed to handover a copy of the writ petition alongwith all annexures to the learned advocate representing the State.
8. Ms. Nandi, learned advocate representing the State submits that the petitioner has deposited the

overdrawn amount without any demur and, therefore, the petitioner cannot challenge the same. She seeks for dismissal of the writ petition.

9. The only question which falls for consideration is whether the authority concerned was justified in directing the petitioner to deposit an amount towards overdrawal of salary in excess of five years before the order of recovery is issued.
10. In order to examine the aforesaid issue at this stage, it will be appropriate to reproduce the relevant paragraph no. 18 from *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 employees, 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 3 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.

11. It is found from Annexure P-1 as page 18 of the writ petition that the period of overdrawn amount is from August, 2011 to July, 2025 which is in excess of five years before the order for recovery was issued. Bearing in mind, the proposition laid down by the Hon'ble Supreme Court in *Rafiq Masih (supra)*, such direction to deposit the alleged overdrawn amount of salary of Rs. 12,55,960/- in the facts and circumstances of the case is impermissible in law. Hence, this Court is of the view that the petitioner is entitled to the refund of the overdrawal amount together with interest.
12. Accordingly, respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no. 3, Treasury Officer, Islampur are directed to release the amount of Rs. 12,55,960/- to the petitioner together with interest @ 8% per annum from the date of deposit till the date of actual disbursement within a period of eight weeks from the date of communication of this order.
13. Learned advocate for the petitioner is directed to communicate this order to respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no.3, Treasury Officer, Islampur for necessary compliance.
14. With the above observations, the writ petition being **WPA 951 of 2026** stands disposed of.

15. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
16. Consequently, connected applications, if any, also stand disposed of.
17. Interim orders, if any, stand vacated.
18. There will be no order as to costs.
19. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)