S/L 1
07.10.2026
Court No.24
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 1284 of 2026

Pousali Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Arun Kumar Mohanty
Mrs. Kaberi Sengupta Mohanty
Mr. R.R. Mohanty
Ms. Pusprita Chowdhury
Ms. P. Bala
Ms. Tithi Guchhait

... for the Petitioner.

Ms. Susmita Saha Dutta, Ld. AGP
Ms. Tapasi Palit Sinha
Mr. Suman Chattopadhyay
Mr. Niladri Saha

... for the State.

1. Affidavit of service filed in Court today be kept with the records.

2. The mother of the petitioner was a pensioner. She received her PPO on December 18, 2013 and she expired on June 5, 2023. For the entire period that the mother of the petitioner received her pension, no issue with regard to her entitlement to receive the amount was ever raised by the authority.

3. The petitioner being the unmarried daughter of the pensioner applied for obtaining family pension in August 2023. The pension was sanctioned in her favour and PPO issued on June 24, 2025, however, with a rider that the payment will be made as per the corrigendum order dated June 24, 2025.

4. The aforesaid corrigendum dated June 24, 2025 was made in the Memo issued for commutation of

pension in favour of the petitioner's mother on February 18, 2015.

5. According to the authority, the mother of the petitioner was paid excess amount for which the petitioner would be entitled to receive reduced amount of family pension for the purpose of adjustment of the excess payment received by her mother.

6. Learned advocate for the petitioner submits that as the pensioner, who was allegedly paid any amount over and above her entitlement has already expired, the excess amount ought not to be recovered from the family pension payable to the petitioner.

7. The petitioner, being the unmarried daughter of the deceased teacher, would be legally entitled to receive family pension as per her entitlement in law and the same ought to be disbursed in her favour at the proper rate without making any adjustment.

8. In support of the submission that the alleged overdrawal amount would not be recoverable, learned advocate for the petitioner relies on the judgment delivered by the Hon'ble Supreme Court in the matter of **State of Punjab & Ors. vs. Rafiq Masih (White Washer)** reported in **(2015) 4 SCC 334** wherein the Court laid down instances where recovery would be impermissible.

9. Prayer has been to direct the authority to disburse pension to the petitioner as per her own entitlement.

10. Learned advocate representing the State respondents submits that as an error has been detected in the amount that was paid to the pensioner, accordingly, the same may be permitted to be recovered by the authority from the family pension receivable by the petitioner.

11. It has also been submitted that the petitioner would be entitled to receive family pension only after making necessary deduction.

12. Upon hearing the submission made on behalf of both the parties and on perusal of the materials on record, it appears that the authority took more than a decade to identify and detect the error of making excess amount to the retired teacher. By the time the error has been detected, the retired teacher had expired. Incidentally the retired teacher left behind an unmarried daughter who applied for grant of family pension in her favour.

13. At the time of processing the family pension file of the petitioner, the authority apparently detected the mistake. The authority presently intends to rectify the mistake by making necessary deduction from the family pension that will be receivable by the petitioner. According to the authority the excess payment made to her mother can be adjusted from

the family pension amount that will be receivable by the petitioner.

14. Such stand of the respondents cannot be accepted at all. There is no proof or evidence on record that the excess amount was received by the retired teacher due to any fault or misrepresentation on her part. After the teacher retired, the authority calculated her terminal dues and paid the same to her. She accepted and enjoyed the money till her death. Now, the authority ought not to contend that as excess money was paid to her mother, the same will be recovered from the family pension of the petitioner. The recovery is sought to be made by making a corrigendum in June, 2025 of the commutation of pension order dated 18th February, 2015.

15. Had the deceased teacher not left behind an heir eligible to receive family pension, in this case an unmarried daughter, then the alleged error would not have been detected at all.

16. *Rafiq Masih (supra)* bars recovery from retired employees. In corollary thereof it can be clearly said that recovery from deceased employees would certainly not be permissible.

17. The excess amount, if any, cannot be recovered and/or adjusted from the family pension amount receivable by the petitioner. The petitioner ought to

receive the actual amount of family pension that she is entitled to in law without any deduction.

18. The Treasury Officer, Barasat-II is directed to release the actual family pension amount receivable by the petitioner forthwith without any further delay w.e.f. the date of her entitlement, i.e., June 6, 2023.

19. As the petitioner would be receiving the family pension at a delayed point of time, the arrear dues shall be paid to her with simple interest at the rate of 5% per annum to be calculated on and from the due date till the actual date of payment.

20. It will be open for the competent authority of the respondents to initiate appropriate proceeding against any officer for whose mistake excess amount was paid in to the mother of the petitioner.

21. The writ petition stands disposed of.

22. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

23. Certified server copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)