

17.04.2026
rc/ct.no.15
Item No.33

WPA No.5570 of 2026
Pulin Chandra Singha
Versus
The State of West Bengal & Ors.

Mr. Krishna Pada Samanta
Mrs. Arpita Saha ..for the petitioner

Mr. Tirthankar Dey ...for the State

Report submitted by the State is taken on record.

Heard learned counsels for the parties.

The petitioner was appointed as Executive Assistant of Nazat-I Gram Panchayat and superannuated on July 31, 2015. The pay scale of the petitioner was revised from time to time in terms of the relevant Government Orders/Rules and there was no dispute with regard to the pay fixation of the petitioner during his service. Upon retirement of the petitioner, his pension papers were withheld on the ground that the petitioner had drawn excess amount of Rs.66,725/- due to wrong fixation of his pay scale during his service. The overdrawal amount was deducted through his pension payment order on January 15, 2016. The petitioner seeks refund of the same.

Opposing such contention, learned counsel for the respondent submits that the petitioner submitted an undertaking before the concerned authority on November 28, 1996 to the effect that he would refund to the Government any amount which may be drawn by him in

excess of what was admissible to him on account of erroneous fixation of his pay in the revised scale of pay. Learned counsel submits that certain material particulars have not been stated by the petitioner in the writ petition. The writ petition refers to several representations submitted by the petitioner. The representations have not been annexed. The petitioner was not taken by surprise when the authority deducted the overdrawal amount since all the prior communications made between the Block Development Officer and the Director of Pension, Provident Fund and Group Insurance were made available to the petitioner.

I have considered the rival contention of the parties.

The Hon'ble Supreme Court, in several judgments including *Shyam Babu Verma & Ors. vs. Union of India & Ors.* reported in (1994) 2 SCC 521, *Union of India & Ors. vs. Tarsem Singh* reported in (2008) 8 SCC 648 and *State of Punjab & Ors. vs. Rafiq Masih (White Washer) & Ors.* reported in (2015) 4 SCC 334 has observed that such recovery is impermissible in law. Paragraph 18 of the authority in *Rafiq Masih (supra)* is set out for the purpose of better understanding of the issue.

“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 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 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."

In view of the above, this Court is inclined to hold that since the overdrawal amount was deducted through the pension payment order of the petitioner by the authority despite the petitioner having no fault in such overdrawal, the petitioner is entitled to the relief as prayed for.

Upon consideration of the submission made on behalf of the parties, the writ petition is disposed of directing the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal and the Treasury Officer, Basirhat, being the 2nd and 4th respondents herein, to release the amount of Rs.66,725/- along with interest thereon @ 8% per annum in favour of the petitioner from August 08, 2015 till the date of payment of the amount. The entire amount shall be refunded within two months from the date of communication of this order.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities

(Suvra Ghosh,J)