

22.04.2026
rc/ct.no.15
Item No.11

WPA No.9183 of 2026
Milan Chowdhury
Versus
The State of West Bengal & Ors.

Mr. Anirban Chakraborty ..for the petitioner

Mr. Somnath Mukhopadhyay ...for the State

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

The petitioner was appointed as Panchayat Karmee of Burda Kalimati Gram Panchayat and superannuated on July 31, 2024. 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.2,34,698/- due to wrong fixation of his pay scale during his service. The overdrawn amount was deducted through his pension payment order on January 17, 2025. The petitioner seeks refund of the same.

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 overdrawing amount was deducted through the pension payment order of the petitioner by the authority despite the petitioner having no fault in such overdrawing, 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, Jhalda, being the 4th and 5th respondents herein, to release the amount of Rs. 2,34,698/- along with interest thereon @ 8% per annum in favour of the petitioner from January 17, 2025 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)