

June 30, 2026
(9) ARDR

WPA 13398 of 2026

Md. Bazlur Rahaman
Vs.
The State of W. B. & Ors.

Adv. Debjani Sahu,

...for the petitioner.

Adv. Madhu Jana,
Adv. Puja Sonkar,

...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 Executive Assistant of Bali II Gram Panchayat and superannuated on 31st March, 2021. The petitioner was granted periodical increments and his scale of pay was revised and fixed from time to time in terms of the relevant Government Orders/Rules and approved by the competent authority. After retirement of the petitioner his pension papers were withheld and on enquiry, the petitioner learnt that an amount of Rs.1,10,624/- was overdrawn by him due to clerical mistake. Pension payment order was issued in favour of the petitioner on 26th December, 2021 and the overdrawn amount of Rs. 1,10,624/- was deducted from the gratuity amount of the petitioner. The petitioner seeks refund of the said amount.

Learned counsel for the petitioner places reliance on the authorities in the case of ***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*** in support of his contention. Paragraph 18 of the authority in Rafiq Masih (supra) is reproduced below 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 said proposition of law, this Court is inclined to hold that since the overdrawn amount of the petitioner was deducted by the authority despite the petitioner having no fault on his part, he 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, Finance Department, Government of West Bengal and the Treasury Officer, Berhampur I herein, being 2nd and 4th respondents herein, to release the amount of Rs. 1,10,624/- along with interest thereon at the rate of eight per cent annum in favour of the petitioner from 1st April, 2021, till the date of payment of the amount. The entire amount be refunded within one month from the date of communication of this order.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)