06.01.2026
Sl. No.24
Ct. No.14
gd

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA/17369/2025
GITA RANI KOLLEY MAITI
VS
THE STATE OF WEST BENGAL AND ORS.

Ms. Arpita Saha
...for the Petitioner.

Ms. Kum Kum Das
...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 to refund the overdrawn amount of Rs.86,213/- together with interest.
3. The petitioner contends that she retired from service as an Assistant Teacher in Kalagachia Special Primary School, Post Office – Kamalpur, District – Paschim Medinipur on 30th September, 2019. The pension was not granted to the petitioner since there was alleged overdrawn amount of Rs.86,213/-. The petitioner was asked by the concerned authority to deposit the overdrawn amount of Rs.86,213/- through Treasury for grant of pension in her favour. Upon deposit of the aforesaid amount Pension Payment Order has been issued in favour of the

petitioner on 13th January, 2023. Such action of the respondent authorities is imperssible in law. Hence, this writ petition.

4. Ms. Arpita Saha, learned Advocate for the petitioner relying on the decision of the Hon'ble Supreme Court in ***State of Punjab & Ors. versus Rafiq Masih (White Washer) & Ors.*** reported in ***(2015) 4 SCC 334*** submits that it is impressible in law to recover the overdrawn amount from the employee after his/her retirement. She also places reliance on a decision of a co-ordinate Bench of this Court in ***Gouri Sinha versus The State of West Bengal & Ors. (In Re: WP 23080 (W) of 2019)***. She seeks for appropriate direction upon the respondent no.2, Director of Pension and Provident Fund and Group Insurance and the respondent no.3, Treasury Officer, Ghatal to refund the overdrawn amount with interest in favour of the petitioner.

5. On the contrary, Ms. Kum Kum Das, learned Advocate for the State leaves the matter to the discretion of the court.

6. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether the respondent authorities were justified to direct the petitioner to deposit the overdrawn amount or not after her retirement.

7. In this regard, it would be apposite to reproduce the relevant paragraph no.18 of the decision in *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 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) the retired Recovery from 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 (v) 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."*

8. In view of the above proposition of Hon'ble Supreme Court and the decision in *Gouri Sinha (supra)*, since it is found that the direction for deposit of the overdrawn salary has been made more than one year of retirement, hence the same is impermissible under law.

9. Accordingly, the respondent No.2, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and also the concerned Treasury Officer being the respondent No.3 are directed to release the said amount of Rs.86,213/- together with interest @ 8% per annum in favour of

the petitioner from the date of deposit till the date of payment. Such payment be made within a period of eight weeks from the date of communication of this order.

10. With the above direction, the writ petition being **WPA 17369 of 2025** stands disposed of.
11. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
12. Interim order, if any, stands vacated.
13. All connected applications, if any, stand disposed of.
14. There shall be no order as to costs.
15. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
16. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)