

06.01.2026
Item No. 37
Ct. No. 14
AN

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA 17792 of 2025
Anil Chandra Paul
vs.
State of West Bengal & ors.**

Mr. Sudipta Maiti

... for the petitioner

Mr. Saumavo Basu
Mr. Biswarup Biswas
Mr. Bishnupada Jana

... 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 respondent no. 2, the Director of Pension, Provident Fund & Group Insurance, Government of West Bengal for refund of the overdrawal amount of Rs.58,672/- together with interest from the date of retirement till the date of actual disbursement.
3. The petitioner contends that he was an approved Assistant Teacher of Sreebora Primary School at P.O. Sreebora, Dist. Paschim Medinipur. The petitioner retired from service on superannuation on 30th September, 2023. The petitioner was asked by respondent no. 4, the District Inspector of Schools (P.E.), Paschim Medinipur for depositing the

overdrawal of amount to the tune of Rs.58,672/-. Accordingly, the petitioner deposited the amount of overdrawal on 8th November, 2023. Subsequent thereto, pension payment order was issued on 29th January, 2024. The action of the respondent authorities directing the petitioner to deposit the overdrawal amount is impermissible in law. Hence this writ petition, seeking for refund of the overdrawal amount deposited by the petitioner.

4. Mr. Sudipta Maiti, learned advocate appearing for the petitioner relying on the decision of the Hon'ble Supreme Court in the case of ***State of Punjab & ors. vs. Rafiq Masih (White Washer) & ors.*** reported in ***(2015) 4 SCC 334*** submits that the Department concerned acted illegally in directing the petitioner to deposit the overdrawal amount of Rs. 58,672/- which is impermissible in law. He also relies on a decision of the Coordinate Bench of this Court passed in ***Mousam Yara Begum versus The State of West Bengal & ors.*** in ***WPA 30186 of 2024***.
5. Mr. Saumavo Basu, learned advocate representing the State submits that the averments made in paragraph no.8 of the writ petition is not in conformity with the facts as stated in the other paragraphs of the writ petition. The petitioner has voluntarily deposited the excess overdrawal amount of salary on account of wrong fixation and thereafter has been granted the

pension. Thus, the petitioner cannot claim refund of the said amount.

6. The Treasury challan (Annexure P-1) shows that an amount of Rs. 58,672/- has been deposited towards overdrawal in salary on 18th November, 2023. The employee concerned has retired on 30th September, 2023. The aforesaid deposit thus has been made after retirement of the petitioner.
7. Now it is to be examined whether the respondent authorities were justified to direct the petitioner to deposit the overdrawn amount or not after his retirement.
8. In order to examine the above issue, it would be appropriate to reproduce the relevant paragraph no.18 of the decision of Hon'ble Supreme Court 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 employees, would be impermissible in law:

(i) Recovery from the employees belonging to Class III 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 3 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."

9. Bearing in mind the aforesaid proposition, since the deposit towards overdrawal is directed to be made after the retirement of the employee concerned, the same is impermissible in law.
10. In the light of the proposition laid down by the Hon'ble Supreme Court in *Rafiq Masih (supra)* and the decision of the Coordinate Bench in *Mousam Yara Begum (supra)*, this Court is of the view that the petitioner is entitled to the refund of the overdrawal amount together with interest.
11. Accordingly, respondent no.2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no.3, Treasury Officer, Ghatal, P.O. Ghatal, Dist. Paschim Medinipur are directed to release the amount of Rs. 58,672/- to the petitioner together with interest @ 8% per annum from the date of deposit till the date of payment within a period of eight weeks from the date of communication of this order.
12. Learned advocate for the petitioner is directed to communicate this order to respondent no.2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no.3,

Treasury Officer, Ghatal, P.O. Ghatal, Dist. Paschim Medinipur for necessary compliance.

13. With the above observations, the writ petition being no. **WPA 17792 of 2025** stands disposed of.
14. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
15. Consequently, connected applications, if any, also stand disposed of.
16. Interim orders, if any, stand vacated.
17. There will be no order as to costs.
18. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)