16.02.2026
Sl. No.20(DL)
Ct. No.14
srm

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 18246 of 2025

Kartik Mukherjee

Versus

The State of West Bengal & Ors.

Ms. Jonaki Saha
…for the Petitioner.

Mr. Bipin Ghosh
…for the State.

1. Report filed by the State furnished by the District Inspector of Schools (PE), Hooghly dated 9th February, 2026 is taken on record.
2. By the present writ petition, the petitioner seeks direction upon the respondent authorities to refund the amount of Rs.60,425/- deposited by the petitioner towards overdrawn salary together with statutory interest accrued thereon.
3. The petitioner contends that he retired from service as an Assistant Teacher of Tisha Free Primary School on 31st December, 2022. Just before his retirement, the petitioner was asked to deposit an amount of Rs.60,425/- on the ground of wrong fixation, which was duly deposited on 16th June, 2022. Upon such deposit, the Pension Payment Order was issued in favour of the petitioner on 14th December, 2022. The direction to refund such amount is impermissible in law. Hence, this writ petition.

4. Ms. Jonaki 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 impermissible in law to recover the overdrawn amount from the employee within one year of his retirement. She seeks for appropriate directions for refund of the deposited amount towards overdrawn salary with interest in favour of the petitioner.
5. On the contrary, Mr. Bipin Ghosh, learned Advocate for the State submits that prior to his retirement the petitioner deposited the overdrawal amount which was received by him due to wrong fixation. At the time of exercising option there was a condition that any subsequent overdrawal, if detected, the employee will liable to pay the same. Thus, the prayer of the petitioner made in the writ petition for refund is not maintainable. He seeks for dismissal of the writ petition.
6. The only issue which falls for consideration is whether the respondent authorities were justified in directing the petitioner to deposit the overdrawn salary amount or not.
7. Admittedly, the aforesaid amount has been deposited prior to six months of superannuation of the petitioner.
8. In this regard, it would be apposite to reproduce paragraph 18 of *Rafiq Masih (supra)*:

> *"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."*

9. It manifests from the aforesaid proposition laid down by the Hon'ble Supreme Court, recovery is impressible in case of the employee who is due to retire within one year of the order of recovery. There cannot be any quarrel that such recovery has been made within one year and thus is impermissible in the facts and circumstances of the case.

10. Accordingly, the respondent No.2, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal, the Treasury Officer, Shreerampore-I, Hooghly being the respondent No.3 and the respondent No.4, the District Inspector of Schools (PE), Hooghly are directed to release the said amount of Rs.60,425/- together with interest @ 8% per annum in favour of the petitioner from 16th June, 2022 i.e. the date of deposit till the date of actual payment. Such payment be made within a period of eight weeks from the date of communication of this order.

11. Learned Advocate for the petitioner is directed to communicate this order to the concerned respondent authorities for necessary compliance.
12. With the above direction, the writ petition being **WPA 18246 of 2025** stands disposed of.
13. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
14. Interim order, if any, stands vacated.
15. All connected applications, if any, stand disposed of.
16. There shall be no order as to costs.
17. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
18. 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.)