

20.01.2026  
Sl. No.7  
Ct. No.14  
ss

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

**W.P.A. No. 18413 of 2025**

**Sampa Basu  
Versus  
The State of West Bengal & Ors.**

Ms. Arpita Saha

...for the Petitioner.

Mr. Rajsekhar Basu

...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 overdrawn of salary of the husband of the petitioner amounting to Rs.72,966/- along with interest from the date of deposit till the date of actual disbursement.
3. The petitioner contends that her husband was appointed as an Assistant Teacher in Debbhadangi Adibashipara Primary School, P.O. Kankra, District Paschim Medinipur. The husband of the petitioner died in-harness on 3<sup>rd</sup> July, 2022. The petitioner is the widow of the deceased employee. The petitioner submitted application for grant of family pension. However, the pension was not granted on the ground of overdrawn amount of salary of Rs.72,966/- by the deceased employee and the petitioner was asked to deposit the said amount. After deposit of the overdrawn

amount on 1<sup>st</sup> September, 2023, family pension payment order was issued in favour of the petitioner on 19<sup>th</sup> March, 2024. The demand of overdrawn amount of Rs.72,966/- by the respondent authorities is impermissible in law. Being aggrieved by the action of the respondent authorities, the petitioner has preferred the present writ petition.

4. Ms. Arpita Saha, learned Advocate for the petitioner submits that the petitioner, being the widow of the deceased employee, was asked to deposit the overdrawn amount after one year of demise of her husband, which is impermissible in law. In support of her contention she relies on the decision of Hon'ble Supreme Court in ***State of Punjab and ors. -versus- Rafiq Masih (White Washer) and ors.*** reported in ***(2015) 4 SCC 334***. She seeks for appropriate direction for refund of the overdrawn amount with interest from the date of deposit till the date of actual disbursement.
5. Mr. Rajsekhar Basu, learned Advocate for the State leaves the matter to the discretion of this Court.
6. The only issue which falls for consideration is whether the respondent authority was justified in directing the petitioner to deposit the overdrawn amount of salary of the deceased employee after one year of death of the deceased employee.
7. In order to examine such issue it would be apposite to reproduce the relevant portion of 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 payment. Be that as it may, based on the decisions 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 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 employees, 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. Bearing in mind the aforesaid proposition of law in *Rafiq Masih* (supra) and as the overdrawn amount has been asked to be deposited after one year of the death of the deceased employee, it is impermissible in law in the facts and circumstances of the case.
9. Accordingly, the respondent no.2, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the respondent no.3, the Treasury Officer, Kharagpur and the respondent no.4, the District Inspector of Schools (PE), Paschim Medinipur are directed to refund the overdrawn amount of salary of Rs. 72,966/- along with interest at the rate of 8% per annum to the petitioner from the date of deposit of the aforesaid amount till the date of actual payment. Such payment shall be made within a period

of eight weeks from the date of communication of this order.

10. Learned advocate for the petitioner is directed to communicate this order to the respondent nos.2, 3 and 4 for necessary action.
11. With the above direction, the writ petition being **WPA 18413 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.
16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. 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.)**