

02.02.2026
Item No. 62
Ct. No. 14
gd

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

WPA/18406/2025
GOPAL CHANDRA NASKAR
VS
STATE OF WEST BENGAL AND ORS.

Ms. Sanchayita De

... for the petitioner

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.77,176/- deposited by the petitioner together with statutory interest.
3. The petitioner contends that he was an Assistant Teacher of Sahara F.P. School, P.O.-Sahararhat, District-South 24-Parganas. The petitioner retired from service on superannuation on 31st August, 2023. After his retirement, the petitioner was asked by respondent no. 4, the District Inspector of Schools (P.E.), South 24-Parganas for depositing the overdrawal amount of Rs. 77,176/- to the Treasury in order to process the grant of pension. Pursuant thereto, the petitioner deposited the aforesaid amount of overdrawal of salary on 3rd May, 2024. Subsequent

thereto, pension payment order was issued on 12th June, 2025. The authorities have illegally directed the petitioner to deposit the overdrawal amount of salary which is impermissible in law. Hence this writ petition, seeking for refund of the overdrawal amount deposited by the petitioner.

4. Ms. Sanchayita De, 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 such recovery of overdrawal is impermissible in law. The Department concerned acted illegally in directing the petitioner to deposit the overdrawal in salary of Rs.77,176/-. She also relies on a decision of the Coordinate Bench of this Court passed in ***Jamal Abdul Nasir versus The State of West Bengal & ors.*** in ***WPA 19337 of 2025***. She seeks for appropriate direction for refund of the aforesaid amount together with statutory interest.
5. None appears on behalf of the State.
6. Mr. Bhakti Prasad Das, learned advocate, who usually appears for the State, is requested to appear in this matter. Let his appointment be regularised.
7. The petitioner is directed to hand over a copy of the writ petition along with the annexures to Mr. Bhakti Prasad Das, learned advocate for the State.

8. Mr. Das, learned advocate for the State leaves the matter to the discretion of the Court.
9. The only issue which falls for consideration is whether the authority concerned was justified in directing for deposit of the overdrawal of salary of Rs.77,176/-.
10. In order to examine the aforesaid issue, it would be appropriate to reproduce the relevant paragraph no.18 from *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.

It is clear from the above that a Writ of Mandamus is prayer for is maintainable in the facts of the present case.

The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer are accordingly directed to release the amount of Rs.1,38,976/- to the petitioner along with interest

@ 8 % per annum with effect from the date of issuance of the pension payment order which should be made to the petitioner within a period of eight weeks from the date of communication of this order.

The writ petition is disposed of, however, no order as to costs.

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

11. The employee concerned has retired on 31st August, 2023. The deposit of the amount is made on 3rd May, 2024. Bearing in mind the aforesaid proposition, the direction of the respondent authority to deposit overdrawing of salary of Rs.77,176/- after retirement of the petitioner is impermissible in law.
12. 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 *Jamal Abdul Nasir (supra)*, this Court is of the view that the petitioner is entitled to the refund of the overdrawing amount together with interest.
13. Accordingly, respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal, and respondent no.4, District Inspector of Schools (P.E.), South 24-Parganas as also respondent no.3, Treasury Officer, Diamond Harbour, Dist. South 24-Parganas are directed to release the amount of Rs.77,176/- to the petitioner together with interest @ 8% per annum from the date of deposit i.e. 3rd May, 2024 till the actual date of payment within a

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

14. 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 respondent no.4, District Inspector of Schools (P.E.), South 24-Parganas as also respondent no.3, Treasury Officer, Diamond Harbour, Dist. South 24-Parganas, for necessary compliance.
15. With the above observations, the writ petition being no. **WPA 18406 of 2025** stands disposed of.
16. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
17. Consequently, connected applications, if any, also stand disposed of.
18. Interim orders, if any, stand vacated.
19. There will be no order as to costs.
20. 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.)