

07.01.2026
Sl. No.12
Ct. No.14
gd

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

WPA/18821/2025
SK.ABDUR RASHID
VS

THE STATE OF WEST BENGAL AND ORS.

Ms. Arpita Saha

...for the Petitioner.

Mr. Rafikul Islam Sardar

...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 overdrawal of salary of Rs.44,913/- deducted at the time of issuance of the Pension Payment Order together with interest @ 18% per annum.
3. The petitioner contends that he was appointed as Assistant Teacher of Rangmahal Corania High Madrasah, Baganda, Police Station – Uluberia, District – Howrah. The petitioner retired from service on superannuation on 30th June, 2003 as the Headmaster of the said Institution. Since gratuity and pension was not sanctioned in favour of the petitioner, he was constrained to file a writ petition before this Hon'ble Court and pursuant to order of this Court Pension Payment Order was issued in favour of the petitioner

on 16th December, 2024 deducting an amount of Rs.44,913/- as overdrawal of salary. Such deduction is impermissible in law. Being aggrieved by the action of the respondent authorities, the petitioner has preferred this writ petition.

4. Ms. Arpita Saha, learned Advocate for the petitioner submits that after 21 years of retirement the Pension Payment Order was issued. The deduction amount of Rs.44,913/- towards overdrawal of salary after such a long period is impermissible in law. To buttress her contention she relied 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***. She seeks for appropriate orders directing for refund of the deducted amount towards overdrawal of salary together with interest.
5. Mr. Rafikul Islam Sardar, 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 in deducting overdrawal of salary after 21 years of retirement of the petitioner from service or not.
7. In this regard, it would be apposite to reproduce the relevant paragraph no.18 of the decision of Hon'ble Supreme Court in *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."

8. In view of the above proposition of Hon'ble Supreme Court, since it is found that the deduction made by the authority concerned towards overdrawal of salary after a long period on retirement, hence it is impermissible in the facts and circumstances of this case.
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 refund the amount deducted towards overdrawal of salary of Rs.44,913/- together with interest @ 8% per annum from next date of retirement till the date of payment. Such refund shall be made within a period of eight weeks from the date of communication of this order.

10. Petitioner is directed to communicate this order to the respondent no.2, Director of Pension, Provident Fund and Group Insurance, Government of West Bengal and respondent no.3, Treasury Officer, Uluberia for necessary action.
11. With the above direction, the writ petition being **WPA 18821 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.)