27.01.2026
Item No. 12
Ct. No. 14
AN

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

**WPA 19979 of 2025**
**Ghanashyam Sutradhar**
**vs.**
**State of West Bengal & ors.**

Ms. Arpita Saha
... for the petitioner

Ms. Rinku Sen
... 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 for refund of the overdrawn salary of Rs.21,772/- deducted at the time of issuance of the pension payment order together with interest @ 18% per annum.

3. The petitioner contends that he was an Assistant Teacher of Semalla Free Primary School at P.O. Semalla, P.S. Pandeveswar, District- Paschim Burdwan. The petitioner retired from service on superannuation on 31st January, 2001. The pension payment order was issued on 23rd October, 2003. The pension payment order shows that there is a deduction of Rs. 21772/- towards the overdrawal in pay. Such deduction is impermissible in law. Hence this writ petition.

4. Ms. Arpita Saha, learned advocate appearing for the petitioner relying on the decision of the Hon'ble Supreme Court in the case of ***State of Punjab & ors. versus Rafiq Masih (White Washer) & ors.*** reported in ***(2015) 4 SCC 334*** submits that the deduction has been made after two years of retirement of the petitioner from his service which is impermissible in law.

5. Ms. Rinku Sen, learned advocate representing the State submits that despite seeking instruction, the same has not been received as yet.

6. Upon hearing learned advocates for the respective parties, the only question which falls for consideration is whether the authority concerned was justified in deducting the amount towards the overdrawal of salary or not.

7. At this stage, it will 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."*

8. In the light of the proposition laid down by the Hon'ble Supreme Court in *Rafiq Masih (supra)*, this Court is of the view that the petitioner is entitled to the refund of the overdrawal amount together with interest in the facts and circumstances of the case.

9. It is found that the claim for such refund has been made after a considerable period. However, since a valuable right has accrued in the mean time, the same cannot be denied on the ground of delay *per se*.

10. Accordingly, respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal, respondent no. 3, the Treasury Officer, Asansol-1 and also respondent no. 4, the District Inspector of Schools (P.E.), Paschim Bardhaman are directed to release the amount of Rs.21,772/- to the petitioner together with interest @ 8% per annum from the date following the date of retirement till the actual date of disbursement 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 respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal, respondent no. 3, the Treasury Officer, Asansol-1 and also respondent no. 4, the District Inspector of Schools (P.E.), Paschim Bardhaman for necessary compliance.
12. With the above observations, the writ petition being no. ***WPA 19979 of 2025*** stands disposed of.
13. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
14. Consequently, connected applications, if any, also stand disposed of.
15. Interim orders, if any, stand vacated.
16. There will be no order as to costs.
17. 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.)**