

21.04.2026
Sl. No.27
Ct. No.14
ss

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

W.P.A. No. 20477 of 2025

**Biren Chandra Shit
Versus
The State of West Bengal & Ors.**

Ms. Sudipa Biswas

...for the Petitioner.

Ms. Mohuya Dutta Biswas

...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 alleged overdrawn amount of salary of Rs.1,48,055/- together with interest to the petitioner.
3. The petitioner contends that he was an Assistant Teacher of Sabra Maktab Primary School, Village & P.O. Sabra, Police Station Belda, District Paschim Medinipur. The petitioner retired from service on superannuation on 30th September, 2019. After his retirement the petitioner was informed by the respondent authorities to deposit an amount of Rs.1,48,055/- towards overdrawn of salary. Subsequent thereto the petitioner deposited the alleged overdrawn amount of Rs.1,48,055/- on 22nd July, 2020. Upon deposit of the overdrawn amount, the pension payment order was issued in favour of the

petitioner on 7th December, 2020. The direction issued by the respondent authorities for depositing the alleged overdrawn amount is impermissible in law. Hence, this writ petition.

4. Ms. Sudipa Biswas, learned Advocate for the petitioner submits that the overdrawn amount of Rs.1,48,055/- pertains to period from 1st April, 2008 to 30th September, 2019, which is more than five years from the date of order of recovery. Relying on the decision of Hon'ble Supreme Court in ***State of Punjab & ors versus Rafiq Masih (White Washer) & Ors*** reported in ***(2015) 4 SCC 334*** she submits that such recovery of alleged overdrawn amount is impermissible in law. She seeks for refund of amount of Rs.1,48,055/- with interest.
5. Despite service, none appears on behalf of the State.
6. Ms. Mohuya Dutta Biswas, learned advocate, who usually appears for the State, is requested to appear in this matter. Let her appointment be regularised by the competent authority.
7. The petitioner is directed to hand over a copy of the writ petition along with the annexures to Ms. Dutta Biswas, learned advocate for the State.
8. Ms. Dutta Biswas, learned Advocate for the State leaves the matter to the discretion of this Court.
9. Upon hearing the learned Advocates for the respective parties, the only issue which falls for consideration is whether the respondent authority was justified in

directing the petitioner to deposit the alleged overdrawn amount of salary or not.

10. In order to examine such issue it would be apposite to reproduce the relevant portion of paragraph 18 of

Rafiq Masih (supra) as follows :

“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.”*

11. The petitioner has retired from service on 30th September, 2019. After his retirement as per direction of the respondent authorities the petitioner deposited the alleged overdrawn amount of salary on 22nd July, 2020. Annexure P5 to the writ petition shows that the alleged overdrawn amount of salary pertains to period from 1st April,

2008 to 30th September, 2019, which is more than five years before the order of recovery was issued. Bearing in mind proposition laid by the Hon'ble Supreme Court in *Rafiq Masih (supra)*, the direction to deposit the alleged overdrawn amount of salary of Rs.1,48,055/- is impermissible in law.

12. Accordingly, the respondent no.3, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the respondent no.5, 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.1,48,055/- pertaining to the period from 1st April, 2008 to 30th September, 2019 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.
13. Learned advocate for the petitioner is directed to communicate this order to the respondent nos.2, 3 and 4 for necessary action.
14. With the above direction, the writ petition being **WPA 20477 of 2025** stands disposed of.
15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
16. Interim order, if any, stands vacated.

17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. 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.)