

30th March., 2026
Item no.D/L 08
Court No. 18
Pradip, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 24889 of 2024**

In the matter of :
Arun Kumar Dutta *.... Petitioner*
VS.
The State of West Bengal & Ors. *....Respondents*

For the Petitioner:
Mr. Mrinal Kanti Ghosh
Ms. Bipasha Bhattacharyya *....Advocates*

For the State:
Mr. Susovan Sengupta
Mr. Subir Pal *....Advocates*

For the WBSMICL:
Mr. Suddhadev Adak *....Advocate*

1. The petitioner was serving as a Lower Division Clerk in the West Bengal State Minor Irrigation Corporation Limited, hereinafter referred to as ‘the Company’.
2. The grievance of the petitioner is that after his retirement, the Company has sought to re-fix his pay. The Company on the plea of re-fixation has also recovered certain amount on the ground of excess payment received by the petitioner. The same is impermissible in law in view of the order passed by the Hon’ble Supreme Court in the matter of **State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors.** reported in **(2015) 4 SCC 334**.
3. Learned advocate representing the respondents submit that the pay of the petitioner was fixed erroneously. The petitioner was

inadvertently paid certain benefits on account of Modified Career Advancement Scheme, which the petitioner was not entitled to.

4. The Company acted in accordance with the orders/directions that were issued by the Government from time to time. The extension of the benefits and the recovery thereof was made in accordance with the order/direction passed by the Government.
5. Upon hearing the parties and on perusal of the documents annexed to the writ petition it appears that the action of the Company in recovery of the excess amount, which was allegedly paid erroneously is absolutely contrary to the order passed by the Hon'ble Supreme Court of India in the matter of Rafiq Masih (supra).
6. In the said order, the Supreme Court specifically laid down the instances where recovery by the employers would be impermissible in law. It says that recovery from the retired employees as well as recovery from the employees when the excess payment has been made for a period in excess of five year, before the order of recovery is issued is impermissible.
7. In the instant case, the petitioner is a Lower Division Clerk who has retired from service long ago and the recovery is sought to be made for a period in excess of five years. The same is against the letter and spirit of the order passed by the Hon'ble Supreme Court.
8. In view of the above, the impugned order seeking recovery of the overdrawn amount is liable to be set aside and, is accordingly, set aside.
9. The respondent authority is directed to refund the amount, which has been recovered on account of excess payment from the petitioner.

10. The respondents shall pay the gratuity and leave salary to the petitioner calculated on the basis of his correct pay scale, which the petitioner is entitled to in accordance with law.
11. As the retiral dues were disbursed in favour of the petitioner at a delayed date, he will be entitled to interest on account of delayed payment of his retiral dues including the amount which was recovered on account of 'overdrawn'.
12. Respondent no. 4, The Managing Director, West Bengal State Minor Irrigation Corporation Limited shall pay interest to the petitioner at the rate six percent per annum calculated from the date of its accrual till the date of actual payment.
13. All payments shall be cleared within a period of six months from the date of communication of this order.
14. The writ petition stands disposed of.
15. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)