

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 26907 of 2025**

Jagadish Prasad Mahato  
v.  
The State of West Bengal & Ors.

Mr. Sakti Pada Jana  
Mr. Subhajyoti Das  
Ms. Sudipta Pramanik  
... For the petitioner

1. Affidavit of service filed in Court today is taken on record.

2. None appears on behalf of the State respondents despite service and notice of upgradation.

3. The petitioner is a retired Headmaster of a secondary school. He retired from service on 30<sup>th</sup> April, 2025. Prior to his retirement, the authority reduced his scale of pay from Rs.1,01,400/- per month to Rs.98,400/- per month.

4. The petitioner did not dispute the reduction in his scale of pay and he further admitted that there was error on the part of the authority in fixing his scale of pay at the rate of Rs.1,01,400/- per month.

5. He is aggrieved as the authority deducted the overdrawn amount from his terminal dues. Prayer has been made to direct the authority to refund Rs.3,47,180/- which was deducted on account of overdrawn payment received by him.

6. Learned advocate for the petitioner submits that the petitioner was no way responsible for the fixation of his pay. The same was made by the Additional District Inspector of Schools (Secondary Education), Purulia. It has been submitted that the petitioner received the pay in terms of the scale of pay fixed by the Additional District Inspector of Schools.

7. Learned advocate for the petitioner contends that though the authority may rectify the mistake in fixing of his pay but the authority ought not to direct the petitioner to refund the amount which was paid in excess of his entitlement.

8. In support of such submission, learned advocate for the petitioner relies on the order passed by the Hon'ble Supreme Court in the matter of **State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.** reported in **(2015) 4 SCC 334** wherein the Court laid down that recovery from retired employees and employees who are due to retire within one year of the order of recovery is impermissible.

9. According to the petitioner, the order of refund was made just a couple of days prior to his retirement.

10. The petitioner also prays for grant of three percent increment on account of upgradation of the school from secondary to the higher secondary level in terms of the Memorandum No.30-SE(B)/5B-1/2009

dated 10<sup>th</sup> February, 2010 and the Government Order No.1003-SE(S)/5P-129/12 dated 4<sup>th</sup> December, 2014.

11. As the issue of refund of overdrawn amount has been decided in the matter of Rafiq Masih (supra), accordingly, the Court is of the opinion that it was impermissible for the authority to direct recovery of the overdrawn amount paid to the petitioner immediately prior to his retirement.

12. The Director of Pension, Provident Fund and Group Insurance, the District Inspector of Schools (Secondary Education), Purulia and the concerned Treasury Officer are directed to refund to the petitioner the amount refunded by him within twelve weeks from the date of communication of this order.

13. The petitioner would be entitled to receive his retiral dues on the proper scale of pay that has been fixed in the Pension Payment Order.

14. As regards the increment, it will be open for the petitioner to apply before the Commissioner of School Education, West Bengal.

15. In the event such representation is made, the same shall be considered by the aforesaid respondent in accordance with law at the earliest but positively within a period of eight weeks from the date of making the representation.

16. If the prayer of the petitioner for increment is allowed, then necessary consequential steps shall be

taken by the Commissioner of School Education, West Bengal.

17. The writ petition stands disposed of.

18. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

19. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

**(Amrita Sinha, J.)**