

19.01.2026
Sl. No.18
Ct. No.14
gd

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

WPA/28317/2025
OHAJUDDIN KHAN
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sourav Mitra
Mr. Banshi Badan Maity
...for the Petitioner.

Mr. Biplab Guha
Mr. Subrata Bhattacharjee
...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 alleged overdrawn amount of Rs.1,28,028/- to the petitioner along with interest at the rate of 18% per annum from the date of retirement till the date of actual disbursement.
3. The petitioner contends that he was an Assistant Teacher of Janardanpur Primary School, P.O.- Janardanpur, District-Paschim Medinipur. The petitioner retired from service on superannuation on 31st January, 2025. After his retirement the petitioner was asked by the District Inspector of Schools to refund the amount of Rs.1,28,028/- towards overdrawn amount in order to avail the benefit of pension. The aforesaid amount was deposited on 18th

February, 2025 before the concerned Treasury Officer and subsequent thereto, Pension Payment Order has been issued in favour of the petitioner. Such direction by the respondent to deposit the overdrawn amount after retirement is impressible in law. Being aggrieved by such action of the respondent authorities, the petitioner has preferred the instant writ petition.

4. Mr. Sourav Mitra, learned advocate for the petitioner relying on the decision of the Hon'ble Supreme Court passed in ***State of Punjab And Others versus Rafiq Masih (White Washer)*** reported in ***(2015) 4 SCC 334*** submits that the authority concerned ought not to have deducted the amount of Rs.1,28,028/- while granting family pension in favour of the petitioner. To buttress his contention, he relies on the decision of the Hon'ble Supreme Court passed in ***Thomas Daniel versus State of Kerala & Ors.*** reported in ***2022 LiveLaw (SC) 438*** as well as on the decision of a Coordinate Bench in ***Mousam Yara Begam versus The State of West Bengal & Ors.*** in ***WPA 30186 of 2024***. In the light of the aforesaid submission, he prays for refund of the aforesaid amount together with interest.
5. Mr. Biplab Guha, learned advocate for the State leaves the matter to the discretion of the Court.
6. The only question which falls for consideration in the present writ petition is whether the petitioner is entitled to refund of the overdrawn amount.

7. In *Rafiq Masih (White Washer) (supra)*, the Hon'ble Supreme Court observed 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 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. The decision in *Rafiq Masih (White Washer) (supra)* is also relied upon in *Thomas Daniel (supra)* and *Mousam Yara Begam (supra)*.
9. In the light of the propositions laid down by the Hon'ble Supreme Court in the aforesaid decisions, this court is of the view that the petitioner is entitled to the refund of the overdrawn amount.
10. Accordingly, the respondent no.2, Director of Pension, Provident Fund and Group Insurance and the respondent no.3, Treasury Officer, Kharagpur are directed to release the amount of Rs. 1,28,028/- to the petitioner together with interest at the rate of 8% per annum from the date of deposit till the actual payment

within a period of eight weeks from the date of communication of this order.

11. Petitioner is directed to communicate this order to the respondent nos.2 and 3 for necessary compliance.
12. With the aforesaid, the writ petition being **WPA 28317 of 2025** is disposed of.
13. Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied.
14. There shall be no order as to costs.
15. 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.)