

08.04.2026
Sl. No.21
Ct. No.14
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 28578 of 2025

**Sk. Abdul Wahid
Versus
The State of West Bengal & Ors.**

Mr. Krishna Pada Santra
Ms. Arpita Saha

...for the Petitioner.

Mr. SM Samim Ullah

...for the State.

1. Report of the District Inspector of Schools (S.E.), North 24-Parganas dated 6th April, 2026 filed by the State-respondent is taken on record. Copy served.
2. By the present writ petition the petitioner seeks direction upon the respondent authorities for refund of alleged overdrawn amount of salary of Rs.1,34,260/- and Rs.51,019/- respectively totalling to Rs.1,85,279/-
3. The petitioner contends that he was the Head Master of Gobati A.H.N. Senior Madrasah, P.O. F.S. Hat, District North 24-Parganas. The petitioner retired from service on superannuation on 28th February, 2023. Prior to his retirement the concerned District Inspector of Schools (SE), North 24-Parganas informed the petitioner that the authority is unable to forward the pension papers of the petitioner to the Directorate of Pension, Provident Fund and Group Insurance for sanctioning since there is overdrawn amount of salary by the petitioner of Rs.1,34,260/- and Rs.51,019/-

respectively totalling to Rs.1,85,279/-. The petitioner was asked by the concerned District Inspector of Schools (S.E.) to deposit the same. In compliance to such direction, the petitioner deposited both the aforesaid amounts before the concerned Treasury Officer. Subsequent thereto, pension payment order was granted in favour of the petitioner. The direction issued by the authority concerned for depositing of the alleged overdrawn salary is impermissible in law. Hence, this writ petition.

4. Mr. Krishna Pada Santra, learned Advocate for the petitioner submits that the amount of the first deposit, that is Rs.1,34,260/- pertains to period from 1st April, 2008 to 30th November, 2017, 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*** he submits that such recovery of alleged overdrawn amount is impermissible in law. He seeks for refund of amount of Rs.1,34,260/-. He concedes that the other portion of the overdrawn salary in respect of the period from 1st January, 2020 to 31st July, 2021 amounting to Rs.51,019/- is correct and petitioner does not claim for its refund.
5. On the contrary, Mr. SM Samim Ullah, learned Advocate appearing on behalf of the State submits that upon verification it was detected that the petitioner has received excess amount of salary and therefore, the

petitioner was directed to deposit the overdrawn amount of salary. The petitioner without any objection has deposited the same and as such, the prayer for release of alleged overdrawn amount of salary is not sustainable in law. He seeks for dismissal of the writ petition.

6. Upon hearing the learned Advocates for the respective parties, the only issue which falls for consideration is whether the respondent authorities particularly, the respondent no.4, the District Inspector of Schools (SE), North 24-Parganas was justified in directing the petitioner to deposit the alleged overdrawn amount of salary or not.
7. 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."

8. Reverting back to the facts of this case, as far as the first deposit of Rs.1,34,260/- is concerned, it pertains to the period from 1st April, 2008 to 31st November, 2017, which is in excess of five years before the order of recovery was issued. As per the proposition laid by the Hon'ble Supreme Court in *Rafiq Masih (supra)*, the direction to deposit the alleged overdrawn amount of salary of Rs.1,34,260/- is impermissible in law. So far as the second deposit of overdrawn amount of salary amounting to Rs.51,019/- is concerned, it pertains to the period from 1st January, 2020 to 31st July, 2021, which is less than five years from the date of order of recovery and is not within one year prior to retirement of the employee and therefore, it is sustainable.
9. Accordingly, the respondent no.2, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, the respondent no.3, the Treasury Officer, Basirhat and the respondent no.4, the District Inspector of Schools (PE), North 24-Parganas are directed to refund the overdrawn amount of salary of Rs. 1,34,260/- pertaining to the period from 1st April, 2008 to 31st November, 2017

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.

10. Learned advocate for the petitioner is directed to communicate this order to the respondent nos.2, 3 and 4 for necessary action.
11. With the above direction, the writ petition being **WPA 28578 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
13. Interim order, if any, stands vacated.
14. All connected applications, if any, stand disposed of.
15. There shall be no order as to costs.
16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
17. 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.)