

25.03.2026
Sl. No.17
Ct. No.14
gd

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

WPA/28596/2025

MD. RAKIBUL ALAM
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sudip Sarkar
Mr. Krishna Pada Santra
...for the Petitioner.

Ms. Sukla Das Chandra
...for the State.

1. Report filed on behalf of the State furnished by District Inspector of Schools (Secondary Education), Birbhum dated 18th March, 2026 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 salary of Rs.1,92,358/- deposited by the petitioner on 6th December, 2022 together with interest from the date of deposit till the date of actual payment.
3. The petitioner contends that he was the Head Master of Kendradangal High Madrasah, Post Office-Sattare, Birbhum. The petitioner retired from service on superannuation on 31st January, 2023. On the verge

of his retirement the petitioner was informed by the concerned authority that subject to deposit an amount of Rs.1,92,358/- towards overdrawn amount of salary by the petitioner for the period from 1st July, 2016 to 30th November, 2022, his pension file will be processed. The petitioner thereafter deposited the aforesaid amount of Rs.1,92,358/- on 6th December, 2022. Subsequent thereto, pension payment order was issued to the petitioner on 6th February, 2024. The amount which has been directed by the respondent authorities to be deposited by the petitioner is impermissible in law. Challenging such action of the respondent authorities, the petitioner has preferred the present writ petition.

4. Mr. Sudip Sarkar, learned Advocate for the petitioner relying on the decision of the Hon'ble Supreme Court in ***State of Punjab & Ors. versus Rafiq Masih (White Washer) & Ors.*** reported in ***(2015) 4 SCC 334*** submits that the amount which has been directed by the respondent authorities to be deposited by the petitioner is in excess of five years before the date of order and within one year of his retirement and therefore, is impermissible in law. He seeks for appropriate order.
5. Ms. Sukla Das Chandra, learned advocate for the State submits that the petitioner received salary on wrong fixation. Upon re-fixation it was found that there has been overdrawn amount for the period from

1st July, 2016 to 30th November, 2022 and thus the petitioner was asked to deposit the said amount. The petitioner has received the excess amount due to wrong fixation by the respondent authorities. Therefore, the claim of the petitioner for refund of the said amount is not sustainable.

6. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether the respondent authorities were justified to direct the petitioner to deposit the alleged overdrawn amount of salary in the facts and circumstances of the instant case.
7. In this regard, it would be apposite to reproduce the relevant paragraph no.18 of the decision in *Rafiq Masih (supra)* as hereunder:

"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) 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. Reverting back to the facts of this case, it is found that the alleged overdrawn amount of salary is calculated for the period from 1st July, 2016 to 30th November, 2022 which is in excess of five years before the date of the order. Moreover, the order of refund is made within one year of retirement of the petitioner. In view of the above proposition of Hon'ble Supreme Court in *Rafiq Masih (supra)*, the direction to deposit the overdrawn salary amount, is impermissible under law.
9. Accordingly, the respondent No.2, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and the concerned Treasury Officer are directed to release the said amount of Rs.1,92,358/- together with interest @ 8% per annum in favour of the petitioner from the date of deposit till the date of actual payment. Such payment be made within a period of 12 weeks from the date of communication of this order.
10. With the above direction, the writ petition being **WPA 28596 of 2025** stands disposed of.
11. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
12. Interim order, if any, stands vacated.
13. All connected applications, if any, stand disposed of.
14. There shall be no order as to costs.

15. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
16. 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.)