

07.04.2026
(D/L 1)
Ct. No.7
(SKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION**

MAT 1 of 2026

The State of West Bengal and others
Versus
Annapurna Das @ Annyapurna Das

Mr. Momenur Rahman,
Mr. Bikash Singha
... for the State/appellants.

Mr. Debajit Kundu
... for the respondent/writ petitioner.

1. Heard the learned advocate for the appellants/State as well as the learned advocate representing the respondent/writ petitioner.
2. The writ petitioner's husband, as per averments made in the writ petition, retired on 31.01.1993. He thereafter passed away on 30.09.1994. Since his retirement and even after his demise, no benefit of pension/family pension was paid to the writ petitioner/respondent or the employee, when he was alive.
3. In the year 2001, the Pension Payment Order (in short 'PPO') was issued, nearly 7 years after demise of the petitioner's husband, authorizing payment of family pension. The authorization order incorporates a recovery of Rs.48,633/-

(Rupees forty eight thousand six hundred thirty-three only) by merely stating "OVERDRAWAL IN PAY ETC".

4. The issue, therefore, which fell for consideration before the learned Single Judge was whether such a recovery could be made from the amount of pensionary dues payable to a wife. The learned Single Judge has interfered with the recovery and directed for refund alongwith interest.
5. The learned advocate for the State/appellants submits that the recoveries were directed in the PPO since the petitioner's husband had exercised an option in terms of Clause 3 of the letter dated 12.08.1998 issued by the Joint Secretary to the Government of West Bengal in the School Education Department, Primary Branch. He submits that the petitioner's pensionary dues were determined accordingly. Therefore, the recovery was directed in the PPO issued on 20.07.2001.
6. The learned advocate representing the writ petitioner/respondent, on the other hand, submits that the recovery is unsustainable. The same having directed nearly 7 years after demise of the government servant cannot be permitted. The petitioner is not in a position to

ascertain whether any excess payment was taken by the husband (the employee) since deceased. The authorities also have not mentioned any details based on any reasons so as to justify such recovery after retirement and consequent demise of the government employee, that also from the pensionary dues payable to his wife/writ petitioner nearly 7 years after demise of the government servant.

7. Under the circumstances, the learned Single Judge considering the various decisions in this regard, including the judgment of the Apex Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer)*** reported in ***(2015)4 SCC 334*** held that the recovery to be unsustainable.
8. We find from perusal of the records and on consideration of the submissions of the learned advocates that the recovery of Rs.48,633/- from the pensionary dues payable to the writ petitioner/wife of a deceased primary teacher is directed in a PPO issued 8 years after retirement and nearly 7 years after demise of the petitioner's husband. The recovery is authorized on the basis of a remark, extracted above. The same is not founded on any reason justifying such recovery. Even if, a reason was

assigned at this belated stage, after demise of a government servant. The writ petitioner would not be in a position to verify whether such a recovery was due.

9. As noticed above the respondent authorities have delayed finalization and grant of pensionary dues of the deceased government servant (husband of the writ petitioner) by 8 years after his retirement. The government servant passed away just one year after attaining the age of superannuation. The recovery is sought to be made nearly 8 years after the petitioner's husband retired and 7 years after his unfortunate demise. The recovery is not preceded by compliance with the principles of natural justice, by giving an opportunity to the writ petitioner's husband while he was in service, or during his lifetime.

10. In such circumstances, the recovery directed in the PPO, in our opinion is unsustainable on this ground alone.

11. We further find that the recovery is directed in the PPO without assigning any reasons in support of the recovery. We are not inclined to allow the learned Advocate for the appellant (State) to supply fresh reasons by relying upon a letter dated 12.08.1998, in the

instant proceeding. The order of recovery is cryptic and the court is required to consider the order as it is without allowing the respondents to supply fresh reasons to the order during the writ proceeding. Our view is fortified by decision of the Hon'ble Apex Court in the case of ***Mohinder Singh Gill & Anr. vs. The Chief Election Commissioner, New Delhi & Ors.***, reported in **(1978) 1 SCC 405**. The Apex Court in the said judgment relying upon earlier decision of the Apex Court in the case of ***Commissioner of Police, Bombay vs. Gordhandas Bhanji***, reported in ***AIR 1952 SC 16***, stated the law in this regard that the order is required to be judged by the reasons mentioned therein. Otherwise an order bad in the beginning may, by the time it comes to court and is under challenge, acquire validity by additional grounds later brought out.

12. From our above consideration, we find that recovery is unsustainable on account of the following reasons:

- (i) *The recovery 8 years after the government employee's retirement cannot be permitted unless there is a statutory provision or rule authorizing such recovery in compliance with principles of natural justice.*

- (ii) *No opportunity was given to the petitioner's husband by issuing of any show-cause notice, while he was still alive.*
- (iii) *The cryptic direction for recovery in the PPO is not supported by any reasons for the recovery and is arbitrary.*
- (iv) *We cannot permit supply of fresh reasons in the PPD when the cryptic direction for recovery in the PPO is under challenge.*
- (v) *The recovery directed in the PPO from widow of the government employee, in the above circumstances, if permitted would definitely lead to an onerous circumstance as contemplated in paragraph 18 of the judgment passed by the Apex Court in the case of **Rafiq Masih** (supra).*

12. We therefore, find no reason to interfere with the decision of the learned Single Judge directing for refund of the amount, recovery along with interest. The appeal is devoid of merit and dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)