

18.06.2026
Sl. No.12
Ct. No.6
gd

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

WPA/687/2026

Anita Barman

Vs

The State of West Bengal and Ors.

Mr. Debajit Kundu

Ms. Rajyashree Ghosh

...for the Petitioner.

Ms. Radhika Agarwal

Ms. Esha Acharya

...for the State.

1. By the present writ petition, the petitioner seeks direction upon the respondent authorities for refund of alleged overdrawn amount of Rs.3,81,496/- together with interest at the rate of 18% per annum from the date following the date of retirement till the date of actual disbursement.
2. The petitioner contends that she was an Assistant Teacher of Harin Chowra Bani Niketan Girls High School, District-Coochbehar. The petitioner retired from service on superannuation on 31st August, 2025. Just prior to one/two months of her retirement as per direction of respondent authorities for sanction of pension the petitioner had to deposit an amount of Rs.2,301/- on 4th June, 2025, Rs.11,130/- on 10th July, 2025, Rs.3,60,985/- on 10th July, 2025 and Rs.7,080/- on 16th July, 2025. Thereafter pension

payment order was issued on 25th September, 2025. The direction of respondent authorities to refund of alleged overdrawn amount is impermissible in law. Hence, this writ petition.

3. Mr. Debajit Kundu, learned advocate for the petitioner submits that the petitioner was directed to deposit the alleged overdrawn amount just prior to one/two months of her retirement which is impermissible in law. To buttress his contention he relies 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***.
4. Ms. Esha Acharya, learned advocate for the State submits that the petitioner was an untrained teacher at the time of her joining. She completed her training qualification on 20th May, 1997. However, out of inadvertent mistake the annual increment of the petitioner was made by the school authority on and from 1st January, 1997, though at that point of time the petitioner was an untrained teacher. Such wrong fixation has led to payment of excess salary. Therefore, the petitioner is not entitled to refund of the overdrawn amount. Moreso, the deposit has been made by the petitioner without any demur and as such cannot claim refund. She seeks for dismissal of the writ petition. She files the instruction submitted by District Inspector of Schools (S.E.), Cooch Behar on 15th June, 2026 which is taken on record.

5. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether such direction of the respondent authority to refund the alleged overdrawn in pay is sustainable or not.
6. In order to examine the aforesaid issue, 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."

7. Reverting back to the fact of this case, it is found that the petitioner retired from service on superannuation on 31st August, 2025. Admittedly, just prior to one/two months of her retirement as per direction of respondent authorities the petitioner deposited an

amount of Rs.2,301/- vide Challan No.5997 on 4th June, 2025, Rs.11,130/- vide Challan No.Ch-6406 on 10th July, 2025, Rs.3,60,985/- vide Challan No.Ch-6405 on 10th July, 2025 and Rs.7,080/- vide Challan No.6490 on 16th July, 2025. Thereafter pension payment order was issued on 25th September, 2025 in favour of the petitioner. Following the decision of Hon'ble Supreme Court in *Rafiq Masih (supra)* such direction of the respondent authorities is impermissible in law.

8. Accordingly, the respondent No.3, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and respondent no.5, Treasury Officer, Cooch Behar-II, are directed to release the said amount of Rs.3,81,496/- to the petitioner together with interest @ 8% per annum from respective date of refund till the date of actual disbursement. Such payment shall be made within a period of six weeks from the date of communication of this order.
9. With the above direction, the writ petition being **WPA 687 of 2026** stands disposed of.
10. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
11. Interim order, if any, stands vacated.
12. All connected applications, if any, stand disposed of.
13. There shall be no order as to costs.

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