

18.06.2026
Sl. No.14
Ct. No.6
ss

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

W.P.A. No. 885 of 2026

**Kamala Thapa
Versus
The State of West Bengal & Ors.**

Ms. Taniya Bhowmik
...for the Petitioner.

Mr. Arijit Ghosh,
Ms. Radhika Agarwal
...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 for refund of alleged overdrawn of salary amount of Rs.42,631/- and Rs.7,057/- to the petitioner along with interest @ 18% per annum from the date of retirement till the date of actual payment.
3. The petitioner contends that she was an Assistant Teacher of Mona primary School, P.,O. Topkhana, District-Darjeeling. The petitioner retired from service on superannuation on 31st March, 2024. The petitioner was informed by the office of the concerned District Inspector of Schools (PE) that certain amount has been overdrawn due to wrong fixation. On such score, the petitioner was directed to deposit the alleged overdrawn amount of Rs.42,631/- and

Rs.7,057/- to the concerned Treasury office for sanction of pension. Accordingly, on 18th June, 2024 and 20th November, 2024 the petitioner deposited the alleged overdrawn amount of Rs.42,631/- and Rs.7,057/- to the concerned Treasury office. Upon deposit of the alleged overdrawn amount, the Pension Payment Order was issued on 20th February, 2025 in favour of the petitioner. Such direction of the concerned District Inspector of Schools (PE) to refund the alleged overdrawn amount after retirement, is impermissible in law. Hence, this writ petition.

4. Ms. Taniya Bhowmik, learned advocate for the petitioner submits that such direction to refund the alleged overdrawn in pay is impermissible in law since it has been made after retirement of concerned employee. To buttress her contention she 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.***
5. Mr. Arijit Ghosh, learned Advocate for the State submits that the petitioner has deposited the aforesaid alleged overdrawn amount without any demur and as such the

petitioner cannot claim for refund of the same. He seeks for dismissal of the writ petition.

6. Upon hearing learned Advocates for the respective parties, the only issue which falls for consideration is whether the direction of the concerned District Inspector of Schools (PE) for refund of the alleged overdrawn amount is sustainable or not.
7. 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."

8. It is found from annexure P1 at page 19 to the writ petition that the alleged overdrawn amount of Rs.42,631/- and Rs.7,057/- were deposited on 18th June, 2024 and 20th November, 2024, respectively. Both the aforesaid deposits have been made after the retirement of the petitioner on 31st March, 2024. Bearing in mind the aforesaid observation of the Hon'ble Supreme Court, since the petitioner was directed to deposit the alleged overdrawn amount after her superannuation on 31st March, 2024 and the deposit has been made subsequently on 18th June, 2024 and 20th November, 2024, hence such direction to deposit the alleged overdrawn amount is impermissible in law.
9. In view of the above, respondent No.2, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and respondent No.3, Treasury Officer, Kalimpong, are directed to refund the alleged overdrawn amount of Rs.42,631/- and Rs.7,057/- to the petitioner together with interest @ 8% per annum from the respective dates of refund till the date of actual payment within a period of six weeks from the date of communication of this order.

10. With the above direction, the writ petition being **WPA 885 of 2026** stands disposed of.
11. Learned advocate for the petitioner is directed to communicate this order to the respondent No.2, Director of Pension and Provident Fund and Group Insurance, Government of West Bengal and respondent No.3, Treasury Officer, Kalimpong, for necessary compliance.
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.)