

19.06.2026
Sl. No.5
Ct. No.6
gd

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

**WPA/925/2026
Nripendra Nath Roy
Vs
The State of West Bengal and Ors.**

Ms. Taniya Bhowmik

...for the Petitioner.

Mr. Arijit Ghosh

Ms. Radhika Agarwal

...for the State.

1. Affidavit of service filed by the petitioner is taken on record.
2. By the present writ petition, the petitioner seeks direction upon the respondent authorities for refund of alleged overdrawn amount of Rs.2,53,500/- together with statutory interest.
3. The petitioner contends that he was a Headmaster of Banizerhat High School, P.O.- Satkhamar, District-Jalpaiguri. The petitioner retired from service on superannuation on 31st January, 2023. During his service tenure direction was issued by respondent authority for refund of overdrawn amount, which has been deposited by the petitioner on 26th November,

2021 amounting to Rs.2,25,170/- and Rs.28,330/-. Such direction for refund of alleged overdrawn amount is impermissible in law. Hence, this writ petition.

4. Ms. Taniya Bhowmik, learned advocate for the petitioner submits that the direction to deposit the aforesaid amount of overdrawn is impermissible in law. 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 alleged overdrawn amount has been refunded by the petitioner much prior to his retirement and that too without any demur. The overdrawn in pay was due to wrong fixation. As such the petitioner cannot claim for refund of the alleged overdrawn amount. He seeks for dismissal of the writ petition.
6. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether such direction to refund towards overdrawn in pay 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. Reverting back to the fact of this case, it is found that the petitioner retired from service on superannuation on 31st January, 2023. The amount has been deposited on 26th November, 2021 which is prior to one year of his retirement. The challan shows that such overdrawn has resulted due to wrong fixation. Therefore, the direction issued for refund of the aforesaid amount does not call for interference. Accordingly, the writ petition falls short of merit.

9. In light of the above discussion, the writ petition being **WPA 925 of 2026** stands dismissed.
10. Interim order, if any, stands vacated.
11. All connected applications, if any, stand disposed of.
12. There shall be no order as to costs.
13. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
14. 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.)