

153 **20.07.
2026**

Ct. No. 18

Ab

WPA 14834 of 2026

**Kanak Pyne and another
Vs.**

The State of West Bengal and others.

**Mr. Shuvro Prakash Lahiri,
Mr. Rajesh Naskar,
Mr. Ankan Mondal.**

... for the petitioners.

**Mr. Lokenath Chatterjee,
Ms. Sneha Chatterjee.**

... for the State.

1. The affidavit of service filed today is taken on record.
2. The supplementary affidavit filed on behalf of the petitioners is taken on record.
3. The petitioner no. 1 has been receiving family pension since the death of her husband, a former Government employee, sometime in 1989. The petitioner no. 1 has received pension for the last 35 years, till about 2023, without any protest and/or demur from the respondent authorities. In November 2025, the petitioner no. 1's bank account maintained with the Punjab National Bank, Hemanta Basu Sarani Branch, was frozen on the ground that excess payment on account of family pension would have to be refunded to the concerned authorities.
4. It was, in these circumstances, the petitioner no. 1

stopped receiving pension and has presently no access to her account and is practically without any financial assistance since November 2025.

5. Though Mr. Chatterjee, learned Junior Standing Counsel appearing for the respondent nos. 1 to 3, submits on instruction that there may be some error in calculating the exact amount, it has been fairly admitted that there is no question of fraud or misrepresentation made by the petitioner no. 1. A copy whereof is kept on record.
6. The petitioner no. 1 in the present circumstances, in spite of getting reduced pension from 2024 is presently without any pension at all since November 2025. Additionally, the petitioner no. 1 does not have access to her own account maintained with the respondent no. 4/Bank.
7. The law on this subject is absolutely clear. The Hon'ble Supreme Court of India in **State of Punjab and others etc. vs. Rafiq Masih etc., reported in (2014) 13 SCR 1343**, has laid down conclusively and in no uncertain terms that recovery from retired employees, where excess payment has been made for a period in excess of 5 years before the order of recovery, would be impermissible in law. The pronouncement in **Rafiq Masih (Supra)** has been reiterated by the Hon'ble Supreme Court of India in the case of **Thomas**

Daniel vs. State of Kerala and others., reported in 2022 SCC Online SC 536.

8. The Hon'ble High Court at Delhi in MS Indra vs. Government of NCT of Delhi and another in WP (C) 4502/2021 and CM APPL 13760/2021, has held in no uncertain terms that overpayment arising out of error in processing pension papers from any of the Bank cannot be a ground to alter the terms and conditions and the amount payable on account of pension.
9. In the instant case, there is absolutely no insinuation or allegation by the respondent authorities that the pension received by the petitioner no.1 for the last 35 years was on the basis of any fraud or on account of any error on the part of the petitioner no. 1. The petitioner no.1, a widow of a former employee, cannot be made to suffer on account of quantification errors made by the authorities.
10. The representation made by the petitioner no. 1 on April 2026 with the respondent no. 2 is pending consideration. The Director of the Public Health Engineering Department, Government of West Bengal, is directed to dispose of the representation of the petitioner no. 1 by August 5, 2026, strictly in line with the decisions rendered by the Hon'ble Supreme Court of India in **Rafiq Masih (Supra)**

and **Thomas Daniel (Supra)** as well as by the Hon'ble High Court of Delhi in **MS Indra (Supra)**.

11. The time taken for quantification by the respondent no. 2 will not be a ground for the respondent no. 4 to deny the petitioner no. 1 access to her account under any circumstances.
12. The respondent no. 4 is directed to immediately defreeze the account of the petitioner no. 1 and permit her access to her account with Punjab National Bank, Hemanta Basu Sarani Branch.
13. The petitioner no. 1's entitlement to family pension is not under question and the only issue relates to quantification. However, as held in the afore-stated cases and particularly, in the case of **Rafiq Masih (Supra)**, even if the petitioner no. 1's entitlement is found to be lesser than the amount paid to her on account of family pension, the same should not be recovered from her in terms of **Rafiq Masih (Supra)**.
14. The respondent no. 2 is directed to dispose of this matter, if required upon giving a hearing to the petitioner no. 1 or her authorized representative within the afore-stated timelines. If the petitioner no. 1 is found to be eligible for any arrear of pension, the same will be paid to her along with interest at rate of 8% per annum, being a reasonable rate as the rate afforded to fixed

deposit by the Nationalized Bank, to senior citizens.

15. With the afore-stated directions, the writ petition is disposed of.
16. There shall, however, be no order as to costs.
17. Parties to act on the basis of the server copy of this order duly downloaded from the official website of this Court.
18. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Reetobroto Kumar Mitra, J.)