

07.04.2026
Item No. 25
Ct. No. 14
AN

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

**WPA 21812 of 2025
Madhuri Mondal
vs.
State of West Bengal & ors.**

Mr. Kamal Mishra
Mr. Pratap Sanfui

... for the petitioner

Mr. Biplab Guha
Mr. Abhishek Chakraborty

... 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 direction upon the respondent authorities for refund of the alleged overdrawal amount of salary of Rs. 46,213/- together with interest at the rate of 18% p.a. from the date of deposit of the overdrawn amount till the date of actual payment.
3. The petitioner contends that her husband was an approved Head Teacher of Dakshin Sitarampur Purbapara F.P. School under Pathar Pratima Circle within the District Primary School Council, South 24 Parganas. The petitioner's husband retired from service on 31st May, 2011. The husband of the petitioner applied for getting pension before the pension sanctioning authority. The pension was not

sanctioned on the ground that there was overdrawn amount of salary of Rs. 46,213/-. The petitioner's husband was directed to deposit the aforesaid amount to the concerned Treasury Officer after his retirement. The husband of the petitioner duly deposited the aforesaid amount and the pension payment order was thereafter issued in favour of the husband of the petitioner on 18th June, 2012. The petitioner's husband died on 25th September, 2017. The petitioner seeks for refund of the alleged over drawn amount together with interest. Hence this writ petition.

4. Mr. Kamal Mishra, learned advocate appearing for the petitioner relying on the decision of the Hon'ble Supreme Court in the case of ***State of Punjab & ors. vs. Rafiq Masih (White Washer) & ors.*** reported in ***(2015) 4 SCC 334*** submits that the alleged overdrawn amount was directed to be deposited after five months of retirement of the petitioner's husband which is impermissible in law.
5. Mr. Biplab Guha, learned advocate representing the State submits that on direction of the District Primary School Council, South 24 Parganas, the petitioner's husband deposited the overdrawn amount of Rs. 46,213/- without demur. He seeks for dismissal of the writ petition. .
6. The only question which falls for consideration is whether the authority concerned was justified in

directing the petitioner's husband to deposit an amount towards overdrawal of salary after his retirement.

7. At this stage, it will be appropriate to reproduce the relevant paragraph no. 18 from *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 employees, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired 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 court arrives at the conclusion, that recovery if made from the 3 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 not in dispute that the husband of the petitioner was directed to deposit the alleged overdrawn amount of Rs. 46,213/- after his retirement. Bearing in mind, the proposition laid down by the Hon'ble Supreme

Court in *Rafiq Masih (supra)*, such direction to deposit the alleged overdrawn amount of salary of Rs. 46,213/- in the facts and circumstances of the case is impermissible in law. Hence, this Court is of the view that the petitioner is entitled to the refund of the overdrawal amount together with interest.

9. Accordingly, respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no. 3, Treasury Officer, Kakdwip are directed to release the amount of Rs. 46,213/- to the petitioner together with interest @ 8% per annum from the date of deposit till the date of actual disbursement within a period of eight weeks from the date of communication of this order.
10. Learned advocate for the petitioner is directed to communicate this order to respondent no. 2, Director of Pension, Provident Fund & Group Insurance, Government of West Bengal and also respondent no.3, Treasury Officer, Kakdwip for necessary compliance.
11. With the above direction, the writ petition being **WPA 21812 of 2025** stands disposed of.
12. Since no affidavits have been called for, the allegations made in the writ petition are deemed to be not admitted.
13. Consequently, connected applications, if any, also stand disposed of.
14. Interim orders, if any, stand vacated.

15. There will be no order as to costs.
16. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)