

18.06.2026
Sl. No.17
Ct. No.6
gd

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

**WPA/923/2026
SANTI AICH
VS
THE STATE OF WEST BENGAL AND ORS.**

Ms. Taniya Bhowmick
...for the Petitioner.

Mr. Arijit Ghosh
Mr. Samar Rakshit
...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 pay of Rs.47,717/- to the petitioner together with statutory interest.
3. The petitioner contends that he was a Group-D Staff of Jitpur Girls High School, District-Alipurduar. The petitioner retired from service on superannuation on 31st March, 2023. However, pension payment order was not issued. The respondent authorities particularly respondent no.4, District Inspector of Schools (S.E.), Alipurduar directed the petitioner to deposit the alleged overdrawn amount of pay of Rs.47,717/- for the reason of wrong fixation of pay. The petitioner deposited the aforesaid overdrawn amount of pay on 28th September, 2023, which is

much after his retirement and as such, the direction of the respondent authorities to deposit overdrawn of pay is impermissible in law. Hence, this writ petition.

4. Ms. Taniya Bhowmick, learned advocate for the petitioner submits that the petitioner was directed to deposit the aforesaid amount of overdrawn of pay after retirement of the petitioner which 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 petitioner has deposited the alleged overdrawn amount of pay without any demur and accordingly, the petitioner cannot claim for refund of the same. 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 the direction of the respondent authorities to deposit/refund the overdrawn of 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 March, 2023. Upon direction of District Inspector of Schools (S.E.), Alipurduar the petitioner deposited the alleged overdrawn amount of pay of Rs.47,717/- on 17th September, 2023. The alleged overdrawn of pay is for the period 1st January, 2008 to 31st December, 2019 which is excess of five years before direction to deposit was issued. Moreover, such direction to deposit has been made after retirement of the petitioner. Bearing in mind the observation of the Hon'ble Supreme Court in *Rafiq Masih (supra)*, such direction to deposit the overdrawn amount of pay is impermissible in law.
9. Accordingly, the respondent No.2, Director of Pension and Provident Fund and Group Insurance, West

Bengal and respondent no.3, Treasury Officer, Alipurduar, are directed to release the said amount of Rs. 47,717/- to the petitioner together with interest @ 8% per annum from the 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.

10. With the above direction, the writ petition being **WPA 923 of 2026** stands disposed of.
11. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
12. Interim order, if any, stands vacated.
13. All connected applications, if any, stand disposed of.
14. There shall be no order as to costs.
15. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
16. 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.)