



Sr. No. 50

2025:JKLHC-JMU:3076-DB

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 1318/2025

1. **UT of J & K through
Principal Secretary to Government,
Jal Shakti (PHE) Department,
Civil Secretariat J & K at Jammu/Srinagar.**
2. **Chief Engineer,
Jal Shakti (PHE) Department, Jammu.**
3. **Executive Engineer,
Jal Shakti (PHE) Hydraulic Division Kishtwar.**

.....Applicant(s)/Petitioner(s)

Through :- Mrs. Monika Kohli, Sr. AAG

v/s

1. **Behari Lal,
S/o Sh. Jia Lal Shan,
R/o Village Ghan Sarthal,
Tehsil & District Kishtwar.**
2. **Shah Din,
S/o Sh. Abdul Khaliq,
R/o Village Bitoliat (Dharyote),
Tehsil Thattri, District Doda.**
3. **Mohd. Iqbal Shah,
S/o Sh. Ghulam Nabi Shah,
R/o Village Feller,
Tehsil & District Kishtwar.**

.....Respondent(s)



सत्यमेव जयते

Through :- Mr. Kapil Gupta, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER (ORAL)

26.09.2025

(Sanjeev Kumar J)

1. Impugned in this petition, filed by the UT of J & K and two others, is an order and judgment dated 20.06.2024, passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in OA No. 1125/2023 titled “Behari Lal & Ors. Vs. UT of J & K & Ors.”, whereby the Tribunal has, while allowing the OA issued the following directions:



- i. *The impugned order of recovery qua the applicants is quashed and set aside and the respondents are directed not to recovery any amount from the salary or pensionary benefits of the applicants.*
- ii. *The amount recovered from the salary/pensionary benefits of the applicants, shall be refunded preferably within two months from the date of receipt of a certified copy of this order.*

2. The issue raised in this petition is squarely covered by the judgment dated 04.04.2025 passed by this Court in WP (C) No. 2416/2024 c/w WP (C) No. 3034/2024 titled “Sita Ram & Ors. Vs. UT of J & K & Ors.”.
3. In the instant case also the Tribunal while relying upon the judgment of Supreme Court titled **State of Punjab & Ors. Vs. Rafiq Masih, (2015) 4 SCC 334** has restrained the petitioners from recovering any amount from the salary or pensionary benefits of the respondents. There is also a direction that if there is any amount recovered from the salary/pensionary benefit of the respondents, the same shall be refunded within a period of two months from the date of receipt of a certified copy of the impugned order. There is, however, no direction by the Tribunal not to correct the mistake and reaffix the salary of the respondents.
4. In view of the aforesaid and also for the reasons that this Court has already dealt with the issue in the judgment dated 04.04.2025 (supra), there is hardly any need to enter into the fresh debate on the said issue.
5. For the foregoing reasons, we are of the considered opinion that the benefit paid to the respondents on account of mistake in the matter of fixation of their salary during their service career cannot be



recovered at the fag end of their career or on their superannuation.

However, the employer is well within its right to correct the mistake, if any, committed in the past and reaffix the salary/pension.

6. In view of the aforesaid, **this petition is found to be devoid of any merit and the same is, accordingly, dismissed.**

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
26.09.2025
Manan

Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No

