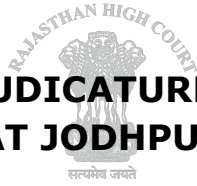


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



D.B. Special Appeal Writ No. 186/2026

CNR: RJHC010064022026

URN: SAW / 309U / 2026

1. The Executive Director Zonal Office (North), Fci, A-2A-2B Sector-24 Noida, Uttar Pradesh.
2. General Manager, Regional Office, Food Corporation Of India, Nehru Place Tonk Road Jaipur.
3. The Area Manager, District Office, Food Corporation Of India, West Patel Nagar Jodhpur.

----Appellants

Versus

Dilip Kumar Dave S/o Mohan Lal, Aged About 64 Years, 20E 26
Chopasani Housing Board Jodhpur (Raj.).

-----Respondent

For Appellant(s)	:	Mr. Nitin Trivedi
For Respondent(s)	:	Mr. Rishabh Tayal

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

HON'BLE MR. JUSTICE SANJEET PUROHIT

Judgment

16/07/2026

The challenge in the present appeal is the judgment dated 13.11.2025 passed by the learned Single Judge, wherein the learned Single Judge has quashed and set aside the action of the appellants and the impugned order dated 06.03.2018 and further directed the appellants to refund the amount of Rs.1,36,000/- along with interest @ 6% per annum, which has been withheld from the pension and retiral benefits of the respondent-writ petitioner.

2. The appellants submit that the amount had been paid to the writ petitioner on account of his promotion but there was an undertaking signed by the respondent-writ petitioner that if any excess payment is found to have been made as a result of incorrect fixation of pay or excess payment deducted in the light of discrepancies noticed subsequently, he would refund the same to the Corporation and therefore the action of the appellants in withholding the amount from the pension was legal and justifiable. Learned counsel has relied upon the judgment passed in the case of **High Court of Punjab & Haryana & Ors. Vs. Jagdev Singh**¹.

3. Per contra, learned counsel appearing for the respondent-writ petitioner submits that the petitioner had attained superannuation on 31.03.2015. The petitioner was promoted as Manager (Accounts) vide order dated 23.12.2009 and had been transferred to join the duties at Punjab region but he continued at his previous place of posting from 2009, until a further order was passed on 08.09.2010 changing place of posting from Punjab region to the District Office, Jodhpur. While at Jodhpur, he continued to work as Assistant Grade-I (Accounts) upto 02.09.2010, the pay fixation was done after the petitioner joined as Manager (Accounts) on 20.01.2011, and therefore, he had continued on the post of Assistant Grade-I. He was granted the benefit of one additional grade increment as per the Stagnation Impact Amelioration Scheme, 2014 (SIAS, 2014) on completion of six years of service on the post of Assistant Grade-I vide order dated 07.11.2016. However, the said order was withdrawn by the Department vide order dated 06.03.2018 holding that the

1 (2016) 14 SCC 267

petitioner was not eligible for additional increment as per the SIAS, 2014 as he had already been promoted on 20.01.2011 and therefore he had not completed six years on the lower post and could not be given the benefit of stagnation. Resultantly, the amount of Rs.1,36,000/- was withheld from the Defined Contributions Pension Scheme (DCPS), which could not have been done as the petitioner had already attained the age of superannuation and any excess payment made could not have been recovered from the respondent.

4. The law relating to recovery from the pensioner is now settled in view of the judgment passed initially in the case of **State of Punjab & Ors. vs. Rafiq Masih (White Washer) & Ors.**² and followed in **Thomas Daniel vs. State of Kerala & Ors.**³ and recently in the case of **Jogeswar Sahoo Vs. District Judge, Cuttack**⁴. However, we find that the learned Single Judge has erred in peculiar facts of the present case. We find that the writ petitioner had already attained the superannuation on 31.03.2015. It was only after his retirement that the department had conducted fixation of his pay presumably while making revision of his pay. The fixation in higher pay scale was done by giving him benefit of six years stagnation treating him to have continued as Accountant upto 2011 whereas actually the fact was that the promotion was granted to him in 2009 as above. But the writ petitioner apparently did not want to join at Punjab and he continued to remain on the lower post of Accountant. Later on, his posting order was revised and he was posted back at Jodhpur

² (2015) 4 SCC 334

³ 2022 INSC 498

⁴ 2025 INSC 449

and he, therefore, continued at Jodhpur. However, this would not mean that he had not been promoted in 2009. He, therefore, would not be entitled to the benefit of stagnation. The fixation which was being done by the department after his retirement was, therefore, corrected. It appears that in the meanwhile the pension and other retiral benefits were released to the petitioner on the basis of incorrect fixation and therefore the amount was withheld from the DCPS. Such withholding of amount therefore cannot be said to be a recovery of excess amount after the retirement but is a case of wrongful calculation of pension and retiral benefits and wrongful fixation after retirement. All the cases as above relate to where an employee has been getting the excess payment during his service but the recoveries are not being affected after he has retired.

5. Since the facts are different from the above law as laid down hereinabove by the Hon'ble Supreme Court as well as by this Court in the case of **The State of Rajasthan & Ors. vs. Dal Chand Jat**⁵ the same would not have any application in the present case and therefore the judgment passed by the learned Single Judge relying on such law would not be sustainable.

6. Accordingly, we set aside the order passed by the learned Single Judge and allow this appeal. Withholding of the amount, which had been wrongly fixed after the retirement by correcting it soon thereafter cannot be said to be recovering of money after the retirement. The action of the Department therefore is found to be correct and does not need any interference.

5 D.B. Special Appeal (Writ) No.293/2020, decided on 13.11.2025

7. The writ petition stands dismissed and the appeal stands allowed.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),ACJ

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