

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1168/2025

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| 1. Union Territory Jammu and Kashmir,
Through Additional Chief Secretary to
Govt. Jal Shakti Department, Civil
Secretariat at present at Srinagar/Jammu. | Petitioner(s) |
| 2. Chief Engineer, Jal Shakti (PHE)
Department J&K, Jammu. | |
| 3. The Executive Engineer, Jal Shakti (Public
Health Engineering Mech. Division
Udhampur) | |

Through: Mrs. Monika Kohli, Sr. AAG.

Vs

Mohd. Sadiq S/o Sh. Nizam Din R/o Jakhani Tehsil & District Udhampur and others-Mobile no. 9796683176	 Respondent(s)
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Through: None.

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

ORDER(ORAL)

07.10.2025

Sanjeev Kumar J

1. Despite service, nobody has turned up to appear on behalf of the respondent. He is, therefore, set an ex parte.
2. Heard learned counsel for the petitioners and perused the material on record.
3. In the instant petition by the Union Territory of Jammu and Kashmir filed under Article 226 of the Constitution of India, the petitioners assail an order and judgment dated 20.06.2024 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [*hereinafter referred to as "the Tribunal"*] in OA No. 1304/2020 titled "*Mohd. Sadiq Vs.*

Union Territory of J&K and others”, whereby the Tribunal, while allowing the OA of the respondent issued the following directions:-

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

4. Admittedly, the respondent was a lower rung class IV employee of the petitioners and has now retired on superannuation. The amount erroneously paid to him during his service career due to wrong fixation of salary was sought to be recovered from his post-retiral benefits. It is, in these circumstances, the respondent approached the Tribunal for indulgence. The Tribunal having taken note of the rival case of the parties and placing strong reliance upon the judgment of the Hon’ble Supreme Court in the case of “***State of Punjab Vs. Rafiq Masih***, AIR 2015 SC 696” and “***Thomas Daniel Vs. State of Kerala and others***, 2022 LiveLaw (SC) 438”, allowed the OA and quashed the recovery notices.
5. The issue which the petitioners have raised before this Court has been addressed by the Hon’ble Supreme Court in the twin judgments mentioned (supra) and also in a judgment rendered by this Court in WP (C) No. 2416/2024 titled “***Sita Ram and others Vs. UT of J&K and ors.***”
6. In view of the settled legal position laid down by the Hon’ble Supreme Court that the erroneous payment made to an employee during the

service career cannot be recovered after superannuation from his post-retiral benefits unless it is shown that the employee was himself contributory to the error committed in the matter of fixation of his salary.

7. In the aforesaid backdrop, we find no merit in this petition. The same is, accordingly, ***dismissed*** alongwith connected applications, if any.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

Jammu
07.10.2025
Diksha

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