

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

WP (C) No. 1944/2025

Date of Pronouncement: 18.10.2025

Uploaded on: 24.10.2025

1. Union Territory of J&K through
Commissioner/Secretary to Government,
Jal Shakti (PHE) Department,
Civil Secretariat J&K at Jammu- 180001
2. Chief Engineer, Jal Shakti (PHE)
Department, Jammu-18001
3. Executive Engineer, Jal Shakti, PHE
Division Nowshera-185151

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

Through :- Ms. Monika Kohli, Sr. AAG

v/s

**Sat Paul S/o Joher Singh
R/o Village Bhawani, Tehsil Nowshera,
District Rajouri-185151
M. No- 9541359710**

...Respondent(s)

Through:- None

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

ORDER(ORAL)

Sanjeev Kumar-J

1. Notice sent to the respondent through registered post on 07.08.2025 has not been received back served or un-served. Statutory period is over.
2. Since nobody has turned up to cause appearance on behalf of the respondent, as such, he is set *ex-parte*
3. This petition under Article 226 of the Constitution of India, filed by the Union Territory of J&K and Ors., is directed against an order and judgment dated 20.06.2024 passed by the Central Administrative Tribunal, Jammu Bench at Jammu ["the Tribunal"] in O.A. No.

1351/2021 titled “*Sat Paul Vs. UT of J&K and 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 recover 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

4. The issue raised in this petition by the UT of J&K is squarely covered by the judgment of Hon’ble Supreme Court in the case of *State of Punjab and Ors. Vs. Rafiq Masih (White Washer); (2015) 4 SCC 334*. The salary paid on account of erroneous fixation cannot be recovered from a lower rung employee, that too, after his superannuation.
5. We have gone through the O.A. filed by the respondent before the Tribunal and clearly found that the respondent has not disputed that the benefit, which was given to him by the petitioners, was under a mistake of fact and if that be the position, the error, if any, committed by the employer, was liable to be corrected at any stage. The entire petition, which was filed before the Tribunal, was premised on the law laid down by the Hon’ble Supreme Court in Rafiq Masih’s case (supra) and a prayer was made to issue a

mandamus to the petitioners herein not to recover the amount paid erroneously under a wrong fixation of the salary.

6. The plea has been accepted by the Tribunal and the petitioners have been called upon not to recover any amount which has been received by the respondent on account of an error of wrong fixation of salary committed by the petitioners.
7. Ms. Monika Kohli, learned Senior AAG could not demonstrate as to how despite clear legal position enunciated in Rafiq Masih's case, the petitioners can be permitted to recover the amount from the retiral benefits of the respondent, more particularly, when the mistake on account of which extra amount was paid is not attributable to the respondent.
8. This petition is, therefore, without any merit and is, accordingly, **dismissed**

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
18.10.2025
Rahul

Whether the order is speaking? : Yes/No

Whether the order is reportable? : Yes/No