

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

SWP No. 628/2016

Date of Pronouncement: 15.12.2025

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Raj Rani, Aged 55 years
Wife of Late Sh. Charan Dass,
R/o Village Gayian,
R.O. & Tehsil R.S. Pura,
District Jammu

.....Appellant(s)/Petitioner(s)

Through: Mr. Ankesh Chandel, Advocate

Vs

1. State of J&K Respondent(s)
Through Its Secretary
Transport Department
Civil Secretariat Jammu.
2. J&K State Road Transport
Corporation, Jammu Through its
Managing Director.
3. General Manager, J&K State Road
Transport Corporation, Jammu
4. Divisional Accounts Officer,
J&K State road Transport
Corporation, Jammu
5. Manager (Estates) RHQ, J&K State
Road Transport Corporation, Jammu

Through: Mr. Vinayak Phull, Advocate for R-2 to 5.
Mr. Eishaan Dadhichi, Advocate for R-1.

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER(ORAL)

1. Petitioner in the instant petition claims to be the wife of one late Shri Charan Dass, who is stated to have been an employee in the respondent-Corporation, working as a Depot Manager, and after rendering more than 26 years of

service, died in harness on 15.01.2006, leaving behind the petitioner and two children. It is stated though she was informed by respondent-Corporation that she is entitled to an ex-gratia amount of Rs. 2,30,663/- however the said amount was not released in her favour and upon an enquiry made and information sought by the petitioner in this regard, she came to be intimated by the respondent-corporation, vide a communication, that although an amount of Rs. 2,30,663/- stands sanctioned as the amount of leave salary and gratuity payable to her, the said amount could not be released owing to the alleged outstanding amount of Rs. 3,34,957/- against the her husband. It is being further stated that there has been nothing outstanding against the deceased husband of the petitioner from the respondent-corporation, as the respondent 4 and 5, in this regard have had in their *inter se* communication sought information in this regard and in fact that the petitioner has been made to run from pillar to post by the respondent-corporation in the process of seeking the release of leave salary and gratuity of her deceased husband, which finally constrained the petitioner to approach this Court through the medium of instant writ petition.

2. Reply to the petition has been filed by the respondents-corporation, wherein it is being stated that the husband of the petitioner admittedly was working as a Works Supervisor in the corporation and at the time of his death, had an outstanding amount of Rs. 3,34,957/- as per the details prepared by the Accounts Wing of the respondent-corporation and because of the said liability, the arrears of leave salary and gratuity of the deceased husband of the petitioner could not be released in favour of the petitioner.

Heard counsel for the parties and perused the record.

3. According to the counsel for the petitioner, the deceased husband of the petitioner, admittedly expired on 15.01.2006 during his service in the respondent-corporation and that the arrears, alleged to be outstanding against the deceased husband of the petitioner, pertain to the year 1993 up till the year 2002 reflected in the statement, annexed by the respondents as Annexure-I with the objections.

Learned counsel for the petitioner would further submit that admittedly the respondents-corporation has not initiated any proceedings for recovery of the said alleged amount from the deceased husband of the petitioner during his service up till his death in the year 2006 and the said alleged outstanding amount is merely reflected in the statement Annexure-1 in vague and ambiguous terms without detailing out any credible proof thereof.

4. Having regard to the aforesaid contentions of the counsel for the petitioner, inasmuch as the record available on the file in general and the reply filed by the respondents in particular, indisputably the respondents did not seem to have initiated any process of recovery of the alleged outstanding amount from the deceased husband of the petitioner when he was in service as the said alleged outstanding amount is shown to be pertaining to the years from October 1993 up till January, 2002. It is also not emerging from the record as to whether any enquiry with regard to the recovery of the said alleged outstanding amount was initiated by the respondents against the deceased husband of the petitioner during his service or that any demand thereof was made from him, so much so it is not also forth coming from the record and reply of the respondents that the amount in question got obtained by the

deceased husband of the petitioner by fraud or misrepresentation. Therefore in this view of the matter, the short question for consideration of this Court would be as to whether the respondents could seek recovery of the alleged outstanding amount from the leave salary and gratuity of the deceased husband of the petitioner after his death in the year 2006.

5. Law in this regard stands settled and is no more *res integra* by a series of judgments passed by the Apex Court from time to time including in case titled as “***State of Punjab and others vs. Rafiq Massih***” (White Washer) Etc. **reported in 2015 (4) SCC 334**, wherein it has been, *inter alia*, held that where an amount of money has been received by an employee from the employer not because of any misrepresentation or fraud and that the said amount is sought to be recovered from such an employee, after a long time same would be arbitrary, unjust and unfair and would result in extreme hardship to such an employee, more so in case of a retired employee and that if at all any recovery is to be effected from such an employee, same shall be made within one year after the superannuation of such an employee.
6. In the instant case, however, recovery is being sought by the respondents-corporation from its employee, after his death in harness in the year 2006 in regard to the alleged outstanding amount pertaining to the year October 1993 till January 2002, that too after the petitioner being the wife of the said deceased employee sought the release of leave salary and gratuity in the year 2015 almost after decade from the death of her deceased husband.
7. In view of the aforesaid position obtaining in the matter, the instant petition deserves to be allowed.

8. Accordingly, the petition is allowed and by issuance a writ of mandamus, respondents in general and respondent No. 2 in particular is commanded to release the leave salary and gratuity amount of Rs. 2,30,663/- in favour of the petitioner along with interest @ 7.5 % from the date the same was due and payable to the petitioner till the date of its actual payment.
9. *Disposed of.*

(Javed Iqbal Wani)
Judge

Jammu
15.12.2025
Rahul Sharma

