

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

**WP (C) No. 2814/2025
CAV No. 1910/2025**

Date of Pronouncement: 10.10.2025

Uploaded on: 13.10.2025

- 1. Union of India through Secretary Ministry
of Defence, New Delhi, Pin- 110001**
- 2. The Commandant 1st Field Ordinance
Depot Pin- 909901
C/o 56 APO
Rehmbal, Near Kali Mata Mandir
Udhampur Pin 182101.**
- 3. The Commandant Finance Section C/o 56
APO.**
- 4. Principal Controller of Defence Accounts
(NC) Narwal Pain Satwari Cantt Jammu
Pin-180003**

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

**Through :- Mr. Vishal Sharma, Sr. Advocate (DSGI) with
Mr. Eishaan Dadhichi, CGSC**

v/s

**Gian Chand, age 62 yrs.
Ex T No. 3330 Carp (MCM)
S/o Anant Ram
R/o Village Manthal, Post office Tikri
Tehsil & District Udhampur (J&K) Pin: 182121**

...Respondent(s)

Through:- Mr. Mohinder Kumar, Advocate

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

ORDER(ORAL)

Sanjeev Kumar-J

1. Impugned in this petition filed by Union of India is an order dated 06.02.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [hereinafter referred to as **"the Tribunal"**] in OA No. 61/1682/2023 titled **"Gian Chand Vs. Union of India and others"**, whereby the Tribunal has allowed the OA and 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 pay/pensionary benefits of the applicants.*
- ii. *The respondents are directed to restore the pay/pension of the applicants which they were getting prior to the issuance of the impugned order.*
- iii. *The amount recovered from the pay/pensionary benefits of the applicants, shall be refunded preferably within two months from the date of receipt of a certified copy of this order.*
- iv. *In the cases, where applicants have already retired, the respondents shall pay pension to the applicants on the basis of last pay drawn by the applicants.*

2. The petitioners are aggrieved of and have challenged the impugned order only to the extent of Direction Nos. II & IV. The reliance has been placed by Mr. Vishal Sharma, learned DSGI on a Division Bench judgment of this Court passed in WP(C) No. 2416/2024 c/w WP(C) No. 3034/2024 titled ***“Sita Ram and and Ors. Vs. UT of J&K and Ors”***, wherein it has been held that though in light of the law laid down by the Hon’ble Supreme Court in case of ***“State of Punjab and Ors. Vs. Rafiq Masih”*** reported as **(2015) 4 SCC 334**, the amount paid erroneously to a Class-IV employee during his service career cannot be recovered from his retiral benefits, yet the employer cannot be restrained from correcting the error and re-fixing the salary after such correction.
3. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the case set up by the petitioners in this petition is squarely covered by the judgment of Sita Ram (Supra) and, therefore, no more debate on the issue is required to be entered. So far as the recovery, sought to be made by the petitioners in terms of the order of recovery impugned before OA is concerned, same

is not sustainable in law. However the petitioners are well within their right to correct their error and re-fix the pay/pensionary benefits of the respondent.

4. For the foregoing reasons, this petition is allowed only to the limited extent of declaring the direction Nos. II & IV reproduced above as untenable in law. Consequently, the Direction Nos. II & IV contained in the impugned order are set aside and rest of the order of the Tribunal is upheld.

5. ***Disposed of.***

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
10.10.2025
Rahul

