

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

Uploaded on: 26.11.2025

CJ Court:

LPA No. 284/2025

CM No. 7462/2025

CM No. 7463/2025

UT of J&K and others

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

Through:

Mrs. Monika Kohli, Sr. AAG

v/s

.... Respondent(s)

Subash Chander

Through:

None

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

**ORDER
24.11.2025**

CM No. 7462/2025

1. This is an application seeking condonation of delay of 106 days in filing the appeal.
2. For the reasons stated in the application, which is duly supported by an affidavit, delay of 106 days in filing the appeal is condoned.
3. Condonation application is disposed of.
4. Main Appeal is taken up on board.

LPA No. 284/2025

5. The respondent filed a writ petition for quashing order dated 01.02.2018, whereby his claim for settlement of pension and other retiral benefits as per the last pay drawn at the time of superannuation was rejected by respondent No. 5. Consequently, the recovery was affected from the respondent's gratuity and other retiral benefits payable by the appellants.
6. The learned writ court while allowing the writ petition preferred by the respondent has directed the appellants to release entire retiral benefits in favour of the respondent along with interest @ 7.5% from the date the amount was withheld by the petitioners till its actual payment and the appellants were left free to fix the pension of the respondent on the basis of last pay drawn by the respondent after deducting the benefits granted under SRO 59 dated 16.02.1990.
7. The appellants have, through the medium of this intra court appeal, challenged the order of the writ court dated 02.05.2025 to the extent that the appellants have every right to recover the amount to which the respondent was never entitled to.
8. The record depicts that the respondents was superannuated from service on 31.01.2014. The learned writ court by placing reliance upon the judgment passed

in **Vinod Kumar vs. UT of J&K and others** bearing WP(C) No. 846/2020 dated 23.02.2024 allowed the writ petition.

9. It is settled law that recovery of excess amount paid to an employee erroneously cannot be recovered from him after superannuation, if there are no allegations of fraud or misrepresentation on his part. Reliance is placed upon the decisions of the Hon'ble Supreme Court of India in **State of Punjab vs. Rafiq Masih (White Washer) Air 2015 SC 696** and **Thomas Daniel v. State of Kerala and others 2022 Live Law (SC) 438**. In **Vinod Kumar vs. UT of J&K** (supra) relied upon by the writ court, reliance was placed upon the judgment passed by the Hon'ble Supreme Court in case titled **Thomas Daniel Vs. State of Kerala and others** (supra).
10. The learned writ court has passed the judgment impugned within the parameters of law and we do not find any illegality, warranting interference by this Court.
11. In view of the above, we do not find any merit in this appeal. The same is, accordingly, dismissed.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU:
24.11.2025
Karam Chand

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