



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (S/B) No. 345 of 2025

18th September, 2025

Union of India and others -----Petitioners

Versus

Shoorbir Singh Negi -----Respondent

With

Writ Petition (S/B) No. 346 of 2025

18th September, 2025

Union of India and others -----Petitioners

Versus

Shoorbir Singh Negi -----Respondent

Presence:-

Mr. D.C.S.Rawat, learned Standing Counsel for the Union of India/petitioners.

Mr. Devang Dobhal, learned counsel for the respondent.

JUDGMENT: (per Mr. SUBHASH UPADHYAY, J.)

As both the Writ Petitions involve similar question of fact and law, as such, the same are being decided by a common order.



2. These two Writ Petitions have been filed by the Union of India challenging the order dated 09.05.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (Nainital Circuit Sitting) in Original Application No. 2957 of 2024 and Original Application No. 3170 of 2024. The two Original Applications were filed by the respondent, which were interconnected and decided by the common order dated 09.05.2025. The Original Application No. 2957 of 2024 Sh. Shoorbeer Singh Negi vs. Union of India and others was filed for the following reliefs:

- “(i) The Hon’ble Tribunal may graciously be pleased to quash the impugned order dated 08.04.2024 alongwith calculation sheet dated 30.03.2024 (Annexure A-1 of O.A.) with all consequential benefits.*
- (ii) To issue any other suitable order or direction or which this Hon’ble Tribunal may deem fit and proper under the facts and circumstances of the case.*
- (iii) To award the costs of the application in favour of the applicant.”*

The Original Application No. 3170 of 2024 Sh. Shoorbeer Singh Negi vs. Union of India and others was filed for the following reliefs:

- “(i) The Hon’ble Tribunal may graciously be pleased to direct the respondents to refund the amount of Rs. 4,79,524/- withheld from DCRG for the applicant with*



18% interest.

- (ii) *To issue any other suitable order or direction or which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.*
- (iii) *To award the costs of the application in favour of the applicant."*

3. The respondent herein; who is the petitioner in the Original Applications; is a group 'C' employee, who was appointed as a Postal Assistant in Tehri Postal Division on 31.03.1991 and superannuated from the post of Sub Post Master, Shivanand Nagar, Post Office, Tehri Garhwal on 31.03.2023. As per the case of the respondent he was allotted a Government accommodation, i.e., Type-II Quarter No. Nil at Veerbhadra Postal Colony vide letter dated 09.08.2012; that he was due to retire on 31.03.2023, as such, he sought permission from the Senior Superintendant of Post Office, Dehradun, Division Dehradun requesting him to permit the respondent to reside in the Government Accommodation at Veerbhadra Postal Colony, Dehradun with normal license fees from the month of 1st April to 31st July, 2023 and the said authority vide letter dated 04.07.2023 granted permission to the respondent to reside in the said quarter till 31.07.2023 with normal license fees of Rs. 370 per month along with payment of electricity and water bill



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charges. The respondent vacated the said quarter on 28.07.2023 and handed over the possession of the said quarter to the Sub Post Master, Veerbhadra, Dehradun on 28.07.2023 and also deposited the electricity bill of Rs. 1560; that the respondent was issued Pension Payment Order (PPO), wherein it was stated that there was no recovery/outstanding dues against the respondent and the Death Cum Retirement Gratuity (DCRG) amount of Rs.14,57,280/- was calculated as payable to him; that once the authorities had mentioned that there was no recovery pending against the respondent as per the PPO, then they were duty bound to make full payment of DCRG as mentioned in the PPO, however, an amount of Rs. 4,79,524/- was withheld without any show cause notice and thereafter, the respondent moved representation on 10.07.2023; that the respondent was informed vide letter dated 18.07.2023 that as the case of the respondent is pending before the authorities for determination of rent, as such, payment has been withheld; that the respondent filed an OA for the release of the withheld amount; that subsequently penal rent of Rs. 22,75,053/- was calculated by the employer and the respondent was asked to deposit the same vide order dated 08.04.2024, which was challenged in OA No. 2957 of 2024. Both the



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Original Applications were allowed on 09.05.2025, against which, present Writ Petitions have been filed by the Union of India.

4. Learned counsel for the petitioner submits that the respondent was appointed as Postal Assistant at Tehri Postal Division on 31.03.1991 and he also worked as Postal Accountant at Veerbhadra Post Office (Dehradun Division) on deputation basis from 26.04.2017 to 01.09.2018, where a Government accommodation was allotted to him and he returned back to his original posting at Tehri on 04.09.2018 from Dehradun but the quarter in Veerbhadra Residential Colony was not vacated by the respondent. The respondent on repatriation was posted at Hindolakhali Sub Post Office where post attached accommodation was available for him w.e.f. 18.03.2019 to 02.04.2022.

5. Learned counsel for the petitioners submits that as the respondent held two Government accommodations at the same time, as such, damages for the said period from 18.03.2019 to 02.04.2022 were calculated and the respondent was directed to pay the damages vide order dated 08.04.2024.



6. In reply, the counsel for the respondent contends that after his retirement from service on 31.03.2023, vigilance clearance and no dues certificate was given to him and his application for residing at the allotted quarter was allowed and he had cleared all the dues on 28.07.2023, as such, the respondent could not have withheld the retiral dues without there being any show cause notice or any proceedings initiated as per law. The counsel for the respondent submitted that demand for recovery of rent after retirement is unjust and unlawful; that the respondent did not receive House Rent Allowance (HRA) since 2012 and was allowed to use government quarters, including a rent-free accommodation at Hindolakhali Post Office, while continuing to pay license fees for a quarter at Veerbhadra Postal Colony; that department only raised the issue of damage rent after his retirement, which violates legal provisions including Rule 68(1)(C) of the CCS (Pension) Rules, 2021; that the recovery was imposed without following due process under the Public Premises (Eviction of Unauthorized Occupants) Act (PP Act); that the respondent cannot be treated as an un-authorized occupant; that the imposition of a large damage rent of Rs. 22,75,053/- is arbitrary and illegal, especially since the department accepted license fees and permitted post-



retirement retention of the said quarter.

7. The Original Applications filed by the respondent was allowed by the learned Administrative Tribunal on the following grounds:

- (i) The respondent is a group 'C' employee and the petitioners did not take any action against the respondent for occupying two accommodations from 2019 to 2022 and only after retirement the order impugned was issued without following the Principal of Natural Justice.
- (ii) The decision of the Hon'ble Apex Court in the case of ***State of Punjab & others vs. Rafiq Masih (White Washer)***, reported in ***AIR 2015 Supreme Court 696***, has also provided that recovery from group 'C' and group 'D' employees was impermissible in law where payments have mistakenly been made by the employer in excess of their entitlement.
- (iii) Further, in Rafiq Masih case the Hon'ble Apex Court held that recovery by the employer would be impermissible in law in any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would



far outweigh the equitable balance of the employer's right to recover.

- (iv) That after retirement the petitioners withheld the amount of Rs. 4,79,524/- from Death cum Retirement Gratuity (DCRG) without issuing a proper Show Cause Notice and without following due process of law.
- (v) That the recovery proceedings were initiated without following the due process under the Public Premises (Eviction of Unauthorized Occupants) Act, (PP Act) and the respondent could not be treated as un-authorised occupant.
- (vi) The imposition of a large damage rent of Rs. 22,75,053/-is arbitrary especially when the department accepted license fees and permitted post retirement retention of the said quarter.

8. The learned Administrative Tribunal after considering the submissions made by the learned counsel for the parties and after perusal of the record had recorded such finding. This Court in judicial review of the orders passed by the Administrative Tribunal cannot act as an Appellate Authority and can only re-appreciate the evidence if there is any perversity in the order of the Tribunal.



9. After hearing learned counsel for the parties and perusal of the record, we are in agreement with the finding recorded by the learned Administrative Tribunal. Petitioners had initiated the recovery proceedings after the retirement of the respondent, who is a group 'C' employee, without providing any show case or any opportunity of hearing. The rent damages have been calculated treating the respondent to be an unauthorized occupant without following the due process as provided under the Public Premises (Eviction of Unauthorized Occupants) Act. The recovery of damage rent of Rs.22,75,053/- from a group 'C' employee, whose total DCRG amount has been calculated as Rs.14,57,280/- is exorbitant and without any basis.

10. The Hon'ble Apex Court in the case of *State of Punjab & others vs. Rafiq Masih (White Washer)* (supra) has held as hereunder:-

"12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise



the following few situations, wherein recoveries by the employers, would be impermissible in law.

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

11. The case of the respondent who is a Group 'C' employee is covered under Clause (i), (ii) and (v) of the said judgment.

12. For the aforesaid reasons we do not find any scope of interference in the order passed by the learned Central Administrative Tribunal. The Writ Petitions filed



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by the Union of India are liable to be dismissed and are,
as such, dismissed.

No order as to costs.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 18.09.2025
Kaushal