

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

Uploaded on: 29.09.2026

WP(C) No. 1926/2021
CM Nos. 5856/2026,
4028/2022 & 7257/2021

Om Parkash Sharma

...Petitioner /Appellant(s)

Through: - Mr. Ravi Abrol, Advocate

Vs.

Union of India and others

...Respondent(s)

Through: - Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC
Mr. Manmeet Singh, Advocate vice
Mr. Vikram Rathore, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER (ORAL)

28.09.2026

1. The petitioner, through the medium of the present petition, has challenged demand notice dated 25.08.2021 issued by respondent No. 3, whereby an amount of Rs. 6,76,106/- is sought to be recovered from him on account of excess pension paid to him.
2. As per case of the petitioner, he joined the Indian Air Force on 21.02.1974 and, after completing 15 months of training, he came to be appointed as LAC. Subsequently, he was promoted to different posts and ultimately, in the year 1993, he was promoted as Junior Warrant Officer. It has been submitted that, after rendering about 21 years of unblemished and successful service in the Indian Air Force, the

petitioner superannuated on 28.02.1995, whereafter his case for grant of pension was settled by respondent No. 2 and a Pension Payment Order was issued in his favour.

3. It has been submitted that, after drawing pension continuously for a period of about 26 years without any objection from any quarter, respondent No. 3 issued the impugned demand notice, whereby the said respondent has sought to recover an amount of Rs. 6,76,106/- on account of excess pension drawn by the petitioner.
4. The petitioner has challenged the impugned action of the respondents on the ground that the same is inequitable and violative of the principles laid down by the Supreme Court in ***State of Punjab and others v. Rafiq Masih (White Washer)*, (2015) 4 SCC 334**. It has been submitted that respondent No. 2 had fixed the pension of the petitioner in accordance with changes in the grades, DA and pay commissions from time to time, and that the petitioner had nothing to do with the fixation of his pension. It has been contended that, at this advanced age, when the petitioner and his wife are suffering from multiple ailments, recovery of the excess pension would operate harshly against him.
5. Respondent Nos. 1 and 2, in their reply to the writ petition, have submitted that recovery of the excess amount erroneously paid to the petitioner has been initiated by the State Bank of India and that respondent Nos. 1 and 2 have nothing to do with the same. It has been further submitted that the pension of the petitioner was correctly sanctioned by respondent Nos. 1 and 2 vide PPO No.

08/14/B/02407/1995 dated 10.02.1995 for the rank of Junior Warrant Officer. It has further been submitted that the State Bank of India erroneously made excess payment of Rs. 6,76,106/- to the petitioner with effect from 01.01.2006 to 31.07.2021, whereafter, vide communication dated 25.08.2021, the Bank initiated recovery of the excess pension paid to the petitioner.

6. Respondent No. 3, State Bank of India, in its reply, has submitted that the pension of the petitioner was originally sanctioned in the rank of Junior Warrant Officer under PPO No. 08/14/B/02407/1995. Subsequently, a corrigendum PPO dated 20.06.2014 was issued by the competent Defence Pension Authority, whereby the petitioner was shown as holding the rank of Warrant Officer and revised pensionary benefits were granted retrospectively with effect from 01.01.2006. Upon receipt of the corrigendum PPO, respondent No. 3 acted upon the same and issued the impugned demand notice seeking recovery of the excess pension released in favour of the petitioner.
7. It has been contended that, since the petitioner received excess pension not due to any independent action on the part of respondent No. 3, but on account of erroneous calculation of pension by the Defence Pension Authority, respondent No. 3 is justified in recovering the excess pension paid to the petitioner. It has been submitted that the ratio laid down in *Rafiq Masih's* case (supra) cannot be applied mechanically without examining the peculiar facts and circumstances of the present case. Along with its reply, respondent No. 3 has placed on record a

copy of the initial PPO issued in favour of the petitioner in the year 1995, as also a copy of the revised PPO issued by the Pension Sanctioning Authority in the year 2014.

8. I have heard learned counsel for the parties and perused record of the case.
9. From the admitted facts emerging from the pleadings of the parties, it appears that, upon his retirement in February 1995, the petitioner was sanctioned pension by the Pension Sanctioning Authority of respondent Nos. 1 and 2, pursuant to which he started drawing pension through respondent No. 3. It appears that, in the year 2014, the Pension Sanctioning Authority came to know that the pension of the petitioner had been erroneously calculated and, accordingly, a corrigendum to the Pension Payment Order was issued by the said authority. As a result of the revised pension sanctioned in favour of the petitioner, it was found that he had been drawing excess pension. Pursuant to the corrigendum issued by the Pension Sanctioning Authority, respondent No. 3-Bank calculated the excess pension drawn by the petitioner and issued the impugned demand notice seeking recovery of an excess amount of Rs. 6,76,106/-.
10. The Supreme Court, in the case of *Rafiq Masih* (supra), has made it clear that it would be inequitable for an employer to recover excess emoluments drawn by an employee after his retirement, provided that the employee has neither connived with the authorities nor has he drawn the excess amount fraudulently.

11. In the present case, there is no allegation either from respondent Nos. 1 and 2 or from respondent No. 3 that the petitioner had connived with the officials responsible for sanctioning the pension in his favour or that he had drawn the excess pension fraudulently. In these circumstances, and in view of the ratio laid down by the Supreme Court in *Rafiq Masih's* case (supra), it would be inequitable to require the petitioner, who is now about 70 years of age, to refund a huge amount of Rs. 6 lacs to the respondents.
12. In view of what has been stated and discussed hereinabove, the impugned demand notice dated 25.08.2021 issued by respondent No. 3 against the petitioner is quashed. However, the respondent-Bank shall be at liberty to revise the pension of the petitioner on the basis of the corrigendum issued by the Pension Sanctioning Authority.
13. Disposed of.


(SANJAY DHAR)
JUDGE

Jammu:
28.09.2026
Karam Chand

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