

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

LPASW No. 54/2016

Pronounced on : 29.01.2026

Uploaded on : 30.01.2026

- 1. Union of India through** Appellant(s)
Secretary, Ministry of Defence, New Delhi.
- 2. Engineer-in-Chief's Branch,**
Integrated HQ of MOD (Army),
Kashmir House, New Delhi-11.
- 3. HQ Chief Engineer, Northern Command,**
PIN 914698, C/o 56-APO.
- 4. HQ Commander Works Engineer, Udhampur,**
PIN 900386, C/o 56-APO.
- 5. Garrison Engineer (Utilities), Udhampur,**
PIN 900386, C/o 56-APO.

Through :- None

v/s

Romesh Chander (Mate Electrician), ...Respondent(s)
S/o Sh. Mohan Lal,
R/o Malhar, Tehsil & District Udhampur (J & K).

Through :- Mr. K S Johal, Sr. Advocate with
Mr. Karman S Johal, Advocate
Mr. Devansh Singh Thakur, Advocate

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

ORDER (ORAL)
29.01.2026

- 1.** This, *intra court* appeal, by the Union of India, is directed against the order and judgment dated 16.10.2014 [**“the impugned order”**], passed by the learned Single Bench of this Court [**“the Writ Court”**] in SWP No. 2476/2013 c/w SWP No. 1200/2013, whereby the Writ Court has disposed of both the petitions by holding that although the impugned order repatriating the respondent to his parent posting at Leh was not in consonance with law, yet held the

respondent entitled to the salary for the period w.e.f. 24.05.2013 i.e. the date on which the order of status-quo was passed by the Writ Court till the order impugned i.e. 16.10.2014 was passed.

2. The appellants are aggrieved and have assailed the impugned order, primarily on the ground that, the Writ Court has not appreciated that the status-quo order was passed on 24.05.2013, whereas the appellants had relieved the respondent on 22.05.2013. It is contended that the Writ Court also failed to appreciate that, for the period the respondent has been held entitled to salary, he has not performed his duties anywhere, either in Udampur or in Leh.
3. *Per contra*, Mr. K S Johal, learned Senior counsel appearing for the respondent, would argue that it was a clear case set up by the respondent in his petition that the relieving order purportedly issued on 22.05.2013 by the appellants was a back dated order which was actually passed after 24.05.2013 i.e. after the order of status-quo. He would, therefore, submit that the order of relieving dated 22.05.2013 was manipulated to overcome the order of status-quo and, therefore, in such circumstances, the respondent should be deemed to have been working at Udampur and entitled to his salary.
4. **Having heard learned Senior counsel for the respondent at length and perused the material available on record, we are of the considered opinion that** the crucial issue, as to whether the order dated 22.05.2013, whereby the respondent has been stated to be relieved by the appellants, is a back dated order issued after 24.05.2013, as alleged by the respondent in the petition and denied

by the appellants, has not been considered and decided by the Writ Court.

5. The Writ Court has, though, come to a right conclusion that the impugned order of transfer/repatriation from Udhampur office of the appellants to Leh was perfectly legal and did not call for interference, however, the Writ Court ought not to have directed the appellants to release the salary of the respondent for the period w.e.f. 24.05.2013 i.e. from the date of status-quo order till the disposal of the writ petitions i.e. 16.10.2014, without first recording a specific finding as to whether on the date of grant of status-quo order i.e. 24.05.2013, the respondent was posted in Udhampur office and had not been relieved.
6. As observed above, the Writ Court has not adverted to the aforesaid issue and has simply directed the appellants to release the salary of the respondent for the intervening period. The Writ Court had not even held the order of relieving date i.e. 22.05.2013, which was challenged by the respondent in the subsequent writ petition, as bad in the eye of law, nor has it quashed the same. In the absence of aforesaid, it was not legally permissible to hold the respondent entitled to salary for the period he had not discharged his duties anywhere.
7. **Be that as it may, without rendering any opinion on the merits of the case, we are of the considered opinion that the matter needs to be remanded back to the Writ Court to consider the aspect of entitlement of the respondent to salary for the period w.e.f. 24.05.2013 when the order of status-quo was passed till**

the disposal of the writ petitions i.e. 16.10.2014. The decision on this aspect would definitely turn on the determination of fact as to whether the respondent stood relieved on 22.05.2013 or was relieved after 24.05.2013 by the appellants, by manipulating a back dated relieving order.

8. With the aforesaid observation, this appeal is disposed of and the matter is remanded back to the Writ Court for deciding the afore-said aspect of the matter. Rest of the judgment of the Writ Court is, however, upheld.

JAMMU
29.01.2026
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