

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 2632/2025
CM(6940/2025)

UNION TERRITORY OF J AND K AND ORS ...PETITIONER(S)

Through:
Mr. Jehangir Ahmad Dar, GA.

V/s.

ABDUL HAMID SHAH AND ORS ...RESPONDENT(S)

Through:
Mr. M.A. Beigh, Advocate for- 1 to 5
Mr. Bikramdeep Singh, Dy. AG for R- 6 and 7

CORAM:

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

ORDER
15.09.2026

1. At the threshold, the counsel for the appellants points out that the case has been decided by the learned Central Administrative Tribunal on the basis of the judgement already passed in OA NO. 592 of 2023, titled *Mehraj ud din & Ors vs. UT of J&K and Ors.*, on 27.09.2023.

2. The counsel for the appellant further points out that Mehraj ud din's case (supra) has further been dealt with by the Division Bench of this Court in WP(C) No. 1628/2025 titled *UT of J&K and Ors vs. Mehraj ud din & Ors*, decided on 06.06.2026, wherein the recovery part has been interfered with, while allowing the re-fixation. The operative part thereof reads as under: -

"4. We clarify that the petitioners shall not recover any alleged excess amount from the respondent which has already been received by him and further the petitioners shall be at liberty to pay retiral benefits to the respondent

after deducting the benefit under SRO 59/1990. However, this direction shall remain subject to outcome of the OA.

6. Accordingly, order dated 27th September, 2024, impugned in WP(C) No. 1628/2025, is modified to the extent that the petitioners shall be at liberty to re-fix the pension of the respondents by excluding the benefit wrongly granted to them”

3. The counsel for the respondents submits that the recovery could not have been made as they are getting full pension and all emoluments have been paid. He further submits that the applicability of the Grade Pay was not an issue before the learned Central Administrative Tribunal.

4. The counsel for the appellant, at this stage, has pointed out his supplementary affidavit, in which he has mentioned that the financial upgradation of the respondents was governed by Government Order No. N-84-PWD of 1994, which laid down the criteria for elevation from one grade to another under the scheme introduced by the SRO 59 of 1990. Counsel for the appellant further submits that even if SRO 59 of 1990 is applicable, the issue would be that the respondents would be entitled to Grade-III and not Grade-II, even while applying SRO 59 of 1990.

5. The proposition in question has not been dealt with by the learned Central Administrative Tribunal, Srinagar, because, probably, the appellants have raised it for the first time. However, in the interest of justice, the present appeal is disposed of with a direction that no recovery in future shall be made. The recovery part of the order passed by the Central Administrative Tribunal shall remain in currency and no recovery shall be made, which is in tandem with *Rafiq Masih* and *Thomas Daniel*. However, the issue as to whether the benefit of SRO 59 of 1990 is to be given as per Grade-III or Grade-II is kept open, and the matter, to that extent, is remanded back to the Central Administrative Tribunal which shall decide the same after giving appropriate opportunity of hearing to both the parties.

6. It is made clear that, until the CAT decides the issue, the present pension and emoluments shall continue to be paid in the same terms as they are being paid today

7. Disposed of.

(RAJNESH OSWAL)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

SRINAGAR:

15.09.2026

Junaid

