



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT PETITION NO. 13270 OF 2026 (S-CAT)

BETWEEN:

1. RANI P
APPEARING PARTY-IN-PERSON
W/O LATE.N.MOORTHY,
AGED ABOUT 65 YEARS,
RESIDING AT NO.24, LAKSHMI NILAYA,
2ND "A" CROSS, ESHWARINAGAR,
HOSAKEREHALLI, BSK 3RD STAGE,
BENGALURU -5600 85.
2. VINAY KUMAR.M,
APPEARING PARTY- IN- PERSON
S/O LATE.N.MOORTHY,
AGED ABOUT 36 YEARS,
RESIDING AT NO.24, LAKSHMI NILAYA,
2ND "A" CROSS, ESHWARINAGAR,
HOSAKEREHALLI, BSK 3RD STAGE,
BENGALURU -560 085
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Digitally signed by
PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SMT. RANI P, PETNR. NO.1-PARTY-IN-PERSON
SRI. VINAY KUMAR M, PETNR.NO.2-PARTY IN PERSON)



AND:

1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY
RAILWAY BOARD,
NEW DELHI-110 001
2. THE GENERAL MANAGER
SOUTH WESTERN RAILWAY
RAIL SOUDHA, GADAG ROAD,
HUBBALI -580 020
3. THE SR. DIVISIONAL FINANCE MANAGER
SOUTH WESTERN RAILWAY
BENGALURU DIVISION,
BENGALURU - 560 023..

...RESPONDENTS

(BY SRI. RESHMA K THAMMAIAH, CGC FOR R1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER QUASHING THE ORDER DATED 27/02/2026 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL AT BENGALURU IN OA NO.138/2025 (PRODUCED AS ANNEXURE-A) AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE RAJESH RAI K



ORAL ORDER

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

1. This writ petition is filed seeking to quash the order dated 27.02.2026 passed by the Central Administrative Tribunal, Bengaluru Bench, (for short, "the Tribunal") in O.A.No.170/138/2025, whereby the Tribunal dismissed the Original Application preferred by the petitioners seeking refund of a sum of ₹2,73,411/-, which had been recovered from late Shri N. Moorthy, husband of the 1st petitioner and father of 2nd petitioner, towards alleged excess payment of leave encashment.

2. The facts in brief are that -

One Shri N.Moorthy retired from service under the South Western Railway. By communication dated 11.04.2014, the respondents informed him that an excess amount of ₹2,73,411/- had been paid towards leave salary and called upon him to refund the same, failing which recovery would be effected through the pension disbursing bank. Pursuant thereto, the said amount came to be remitted by the employee in April, 2014. Thereafter, the employee submitted



representations dated 21.04.2014, 24.04.2014 and 02.05.2014 questioning the recovery and seeking reconsideration. Admittedly, no proceedings were initiated before any judicial forum during his lifetime. The said N. Moorthy died on 19.02.2024. Thereafter, the petitioners approached the authorities and upon rejection of their request by order dated 18.06.2024, instituted O.A. No.170/00138/2025 before the Tribunal.

3. The Tribunal, by the impugned order, held that the amount had been refunded by the employee in April, 2014 and that no legal challenge was made during his lifetime. The Tribunal also observed that the recovery had attained finality and that the petitioners could not, after nearly ten years, reopen the issue, that too after the death of the employee. It is further held that the payment was voluntary and that the claim suffered from delay and laches and that the principles laid down by the Hon'ble Supreme Court in **STATE OF PUNJAB VS. RAFIQ MASIH** reported in **(2015) 4 SCC 334** were not attracted. Consequently, the Original Application came to be



dismissed. Aggrieved by the same, the petitioners are before this Court.

4. Heard the petitioners appearing party-in-person and Smt. Reshma K Thimmaiah, learned Senior Panel Counsel appearing for the respondents. Perused the material available on record.

5. Petitioners, appearing party-in-person, would vehemently contend that the communication dated 11.04.2014 was not a valid show-cause notice and that the recovery proceedings were initiated in violation of principles of natural justice. According to him, the deceased employee had no real choice except to remit the amount under threat of recovery through the pension disbursing bank and, therefore, the payment cannot be construed as voluntary. He would further contend that the deceased employee had consistently protested against the recovery by submitting representations dated 21.04.2014, 24.04.2014 and 02.05.2014 and had personally pursued the matter before the authorities. Therefore, the findings recorded by the Tribunal regarding acquiescence and conscious closure are erroneous. He would also contend that no speaking order was passed on the representations for nearly a decade and,



consequently, the respondents cannot take advantage of their own inaction to defeat the claim on the ground of delay and laches. According to him, the communication dated 18.06.2024 furnished a fresh cause of action.

6. It is also urged that the Tribunal has erred in placing reliance upon Form No.21 and in applying the decision of the Hon'ble Supreme Court in ***High Court of Punjab and Haryana and Others vs. Jagdev Singh*** reported in **(2016) 14 SCC 267** According to the petitioners, no specific undertaking existed authorising recovery from leave encashment and, in the absence of fraud or misrepresentation, the recovery itself was impermissible in view of the law laid down in ***Rafiq Masih*** cited *supra*.

7. It is lastly contended that the Tribunal adopted an unduly technical approach while considering the question of delay and failed to appreciate that the deceased employee had continuously pursued his grievance. Accordingly, he would pray for quashing the impugned order.



8. *Per contra*, learned counsel appearing for the respondents would support the order of the Tribunal and submit that the amount was remitted by the employee in April, 2014 and no challenge was made before any Court or Tribunal during his lifetime. It is submitted that the representations relied upon by the petitioners would not extend limitation indefinitely and that the issue had attained finality long ago.

9. It is further contended that the deceased employee was aware of the demand and consciously refunded the amount and, therefore, after his demise, the petitioners cannot seek reopening of a settled matter. It is submitted that the order dated 18.06.2024 merely communicated rejection of the request made by the petitioners and did not furnish any fresh cause of action. Learned counsel would further contend that the Tribunal has rightly distinguished the judgment in **Rafiq Masih** cited supra and that no ground warranting interference under Articles 226 and 227 of the Constitution is made out.

10. We have given our anxious consideration to the rival submissions and carefully examined the material on record. The fact that the amount in question was remitted by the deceased



employee in April 2014 is not in dispute. Equally undisputed is the fact that no proceedings were instituted before any judicial forum challenging the said recovery during the lifetime of the employee. Thus, the settled position of law is that stale claims cannot be revived by making representations. Significantly, the employee survived for nearly ten years after the repayment and yet chose not to initiate any legal proceedings. The contention that the amount was paid under coercion cannot be accepted in the absence of any contemporaneous challenge before an appropriate forum. The employee, despite being aware of the recovery, consciously remitted the amount and allowed the matter to attain finality. The communication dated 18.06.2024 merely rejected the request made by the petitioners and cannot be construed as giving rise to a fresh cause of action. As such, the reliance placed upon ***Rafiq Masih*** cited supra is not apposite.

11. It is undisputed that at the time of retirement the employee executed Form No.21 i.e., an undertaking acknowledging that pensionary benefits were provisional and excess payments, if detected, would be refunded. In such



circumstances, in the case of ***Jagdev Singh*** cited supra, it is held as under:

"10. In State of Punjab & Ors etc. vs. Rafiq Masih (White Washer) etc', this Court held that while it is not possible to postulate all situations of hardship where payments have mistakenly been made by an employer, in the following situations, a recovery by the employer 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."

(emphasis supplied).

11. The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking."

12. By relying upon the said judgment, the Coordinate Bench of this Court in **WP.4731/2023** disposed of on **20.12.2024** has held that if such an undertaking is given by the employee, recovery is legally permissible.



13. The present case is not one where recovery was sought to be given effect to after a long lapse of time. The amount had already been refunded in 2014 itself by the father of the second petitioner and the legality of such recovery was never challenged by the employee. Therefore, the Tribunal was justified in holding that the principles laid down therein are not attracted. The issue had attained finality and the petitioners, after the demise of the employee, cannot seek to reopen a concluded transaction by relying upon unanswered representations. The Tribunal has considered all relevant aspects and has assigned cogent reasons while dismissing the Original Application. We do not find any perversity, illegality or jurisdictional error in the impugned order warranting interference. Accordingly, the petition, being devoid of merit, is ***dismissed.***

**SD/-
(S.G.PANDIT)
JUDGE**

**SD/-
(RAJESH RAI K)
JUDGE**