



2025:DHC:9868-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 11.11.2025***

+ W.P.(C) 17060/2025

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Piyush Gupta, CGSC,
Mr.Sudhanshu Sharma,
Mr.Atishay Jain, Ms.Himanshi
Soni, Advs.

versus

GANGA RAM (EX SR. C. CLERK)

.....Respondent

Through: Mr.B. C. Nagar, Adv.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE MADHU JAIN****NAVIN CHAWLA, J. (ORAL)****CM APPL. 70231/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

W.P.(C) 17060/2025 & CM APPL. 70232/2025

2. This petition has been filed, challenging the Order dated 29.01.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.374/2021, titled ***Ganga Ram v. Union of India & Ors.***, allowing the said O.A. filed by the respondent herein with the following directions:

"17. In view of the above, the Original Application is allowed with the following directions:-



- i. Impugned orders dated 12.03.2020 and 04.02.2021 issued by the respondents are quashed and set aside.*
- ii. The respondents are directed to refund the deducted amount of Rs.2,01,470/- to applicant with penal interest at the rate of GPF within eight (08) weeks from the date of receipt of certified copy of this order.*
- iii. The respondents are further directed to pay arrears of difference of full and final pension after revising the pension of the applicant with penal interest at the rate of as stated above within above mentioned eight (08) weeks. The Pension Payment Order (PPO) of the applicant shall also be revised and reissued accordingly. ...”*

3. The respondent who was working as Senior Commercial Clerk, Delhi Division, Northern Railway, superannuated from service on 31.03.2020. After his retirement, a total recovery of Rs.2,36,472/- was made from his Death-cum-Retirement Gratuity. The said amount included recovery for issuance of an RELHS Medical Card worth Rs.30,000/- and a deduction of Rs.5,000/- towards mandatory commercial debit. Pertinently, the respondent had also been visited with the following penalties during service:

- “(i) A penalty of withholding of increment (WIT) for three years imposed vide order dated 22.12.2016, subsequently reduced to two years and six months by order dated 17.08.2017;*
(ii) Another WIT penalty for one year imposed vide order dated 23.07.2019, effective from 01.07.2020.”

4. It was contended that while the first penalty could not be implemented during the service of the respondent due to



2025:DHC:9868-DB



administrative constraints, the second penalty was waived off by the competent authority as it was to take effect after his retirement. Hence, the recovery amount also included the penalty amount that was not imposed.

5. In the Writ Petition, it is now contended that the recovery should have been of an amount of Rs.1,53,632/- due to the penalty of withholding of increment for two years and six months without cumulative effect. It is further contended that as the amount was being recovered in pursuance of a penalty order, the Judgment of the Supreme Court in *State of Punjab & Ors. v. Rafiq Masih & Ors.*, (2015) 4 SCC 334, would not be applicable.

6. The learned counsel for the petitioners reiterates the above submissions and states that this was not a case of recovery of the amount which was paid in excess on account of clerical mistakes but was a recovery for the implementation of the penalty order imposed on the respondent. He further submits that in any case, the petitioners have a right to re-fix the pension of the respondent in accordance with and after giving effect to the above penalty order.

7. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that as far as the recovery is concerned, the penalty order having not been given effect to during the service tenure of the respondent, cannot now be made a ground for making the recovery of the said amount from the retiral benefits of the respondent.

8. He further submits that in terms of Rule 807(2) of the Indian Railways Vigilance Manual, 2006 (hereinafter referred to as the



‘Railway Manual’), in case any minor penalty has to have an effect on the pension of a retired employee under the Railways Servants (Discipline & Appeal) Rules, 1968 (hereinafter referred to as the ‘Rules’), the same can be imposed only after conducting an inquiry. In the present case, the penalty was imposed without any inquiry.

9. We have considered the submissions made by the learned counsels for the parties.

10. It goes undisputed that though the respondent was visited with the above penalty, it was not given effect to during his service period. The recovery was sought to be made post his retirement and from his retiral benefits. Such recovery has clearly been forbidden by the Supreme Court *vide* its Judgment in **Rafiq Masih** (supra). We, therefore, find no fault in the finding of the learned Tribunal in this respect.

11. As far as the re-fixing of the pension is concerned, the penalty imposed on the respondent was without cumulative effect. As contended by the learned counsel for the respondent, the same had been imposed without holding a proper disciplinary inquiry in the manner as laid in Sub-Rules 6 to 25 of Rule 9 of the Rules. In this regard, Rule 807 (2) of the Railway Manual reads as under:

“807. Penalties under Discipline & Appeal Rules:

xxx

(2) In terms of sub rule (2) of Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968, minor penalty of withholding of increment (s) with cumulative effect, or any of the minor penalties affecting the pension of the employee, should not be imposed unless an inquiry is held in the manner laid down in sub-



2025:DHC:9868-DB



rules (6) to (25) of Rule 9.”

12. In view of the above and in any case, the penalty being imposed without having any cumulative effect, we fail to understand how it can have an effect on the determination of the pension of the respondent.

13. The Writ Petition and the pending application are, accordingly, dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

NOVEMBER 11, 2025/Arya/ik