IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) 7314 of 2026
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1. The Union of India, through the General Manager, Eastern Railway, Fairlie Place, Kolkata P.O. GPO Kolkata & P.S. Hare Street
2. The Chief Personnel Officer (Administration), Eastern Railway, Fairlie Place, Kolkata P.O. GPO, Kolkata & P.S. Hare Street
3. The Divisional Railway Manager, Eastern Railway, Malda Division, P.O. & P.S. English Bazar, District – Malda, West Bengal.
4. The Additional Divisional Railway Manager, Eastern Railway, Malda Division P.O. & P.S. English Bazar, District – Malda, West Bengal.
5. The Senior Divisional Personnel Officer, Eastern Railway, Malda Division, P.O. & P.S. English Bazar, District – Malda, West Bengal.

... Petitioners

Versus

Mahesh Prasad Ram, Son of Late Kedar Ram, Resident of Mohalla – Gorabari, Stadium Raod, Near B.D.O. Office, P.S. & P.O. Jirawabari, District – Sahibganj, Jharkhand – 816109.

... Respondent

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Writ Petitioners : Mr. Prashant Kr. Singh, DSGI
: Ms. Pinky Shaw, AC to DSGI
For the Respondent : None

02/Dated: 17th September, 2026

1. The instant writ petition is under Article 226 & 227 of the Constitution of India directed against the order dated 05.05.2026 passed by the learned Central Administrative Tribunal (CAT), Patna Bench, Circuit Sitting at Ranchi in O.A. No. 051/00404/2023 by which the decision taken by the authority as contained in Letter No. E/Pen/MLDT/ONR/6155 dated 22.09.2015 directing to recover a

sum of Rs. 2,24,497/- from the arrears of pension relief of the applicant has been quashed.

Factual Matrix

2. The brief facts of the case, as per the pleading made in the writ petition incorporated on the basis of the original application is referred herein which reads as under:

   (i) The applicant (respondent herein) was subject to action under Railway Servant (Disciplinary & Appeal) Rules and the disciplinary authority imposed the penalty of dismissal from service. Subsequently, the appellate authority, vide order dated 30.01.2008, modified the punishment from dismissal to Compulsory Retirement with admissible pensionary benefits, with effect from the date of the original punishment.

   (ii) Being aggrieved from the aforesaid orders, the applicant (respondent herein) had approached the learned Administrative Tribunal Calcutta Bench by filing O.A. No. 803 of 2008, which was dismissed vide order dated 08.04.2011. The writ petition and the Special Leave Petition preferred before this Court and the Hon'ble Apex Court, respectively were also dismissed, and the order of compulsory retirement thus attained its finality.

   (iii) When the applicant's pension and pensionary benefits were not released, he approached this Tribunal at Patna in OA No. 651 of 2015 wherein the written statement filed by the

respondents (writ petitioners herein) and in the said OA the respondents enclosed letter dated 22.09.2015 whereby Rs. 2,24,497/- was recovered from the arrear of pay & DA (amounting to Rs. 30,582/-) difference of Leave Salary (amounting to Rs. 2,416/-), Revised DCRG of applicant (amounting to Rs. 2,416), revised DCRG of applicant (amounting to Rs. 1,88,749/-) and the rest amount, i.e. (2,24,497-2,21,747= 2,750) was recovered from arrears of pension relief of applicant.

(iv) The said OA No. 651 of 2015 was disposed of by the learned Tribunal vide order dated 24.02.2016 as having become infructuous as retiral dues including DCRG were already released. In the said order it was further observed by the Tribunal that since damage rent is a subject matter of independent cause of action it cannot be adjudicated within the parameters of the present OA and while disposing of the said OA liberty was granted to the applicant to pursue his grievance of deduction of damage rent recovery in appropriate forum.

(v) The applicant then challenged the said order dated 22.09.2015 before the Railway Administration by way of submitting various representations but no action was taken and when the applicant was provided with letters dated 02.09.2019 and 04.01.2022 under the RTI Act, 2005 the actual truth regarding non-occupancy and non-retention of govt. quarter by the

applicant was revealed. In Column 4 of the letter dated 02.09.2019 it is stated, "As per available record these quarter had crossed their codal life and presently in dilapidated condition and hence, unsafe for accommodation of staff. However, in, order to development of circulating area of Sahibganj station these quarters have been vacated as per instruction of DRM/MLDT and staff concerns have been given alternate accommodation. Some of the said quarters had been vacated on 28.05.2011 and 14.11.2011.

(vi) It had been contended by the applicant (respondent herein) before the learned Tribunal that after his dismissal followed by modification of punishment to compulsory retirement, the applicant had no cause to remain at Railway Quarter which was in dilapidated condition as stated above. As the applicant remained outstation in the process of pursuing his litigations, he could not submit the quarter vacation letter to the administration on time which was admittedly submitted by him in the year 2014 through his application dated 09.09.2014. But the respondents deducted the retiral dues and other amounts of applicant vide impugned order dated 22.09.2015 for a railway quarter which was very old, crossed its codal life and was in dilapidated condition and since as per the 02.09.2019 and 04.01.2022 said quarters had been lastly vacated on 28.05.2011 and 14.11.2011, deduction from

applicant up to the period September, 2014 is wholly unjustified.

(vii) The respondents (writ petitioners) had taken the ground before the learned tribunal that the Applicant did not vacate the railway quarter/accommodation and continued in unauthorized occupation thereof until 29.08.2014. Consequent thereto, damage rent for the period of unauthorized occupation, i.e., from 01.08.2007 to 29.08.2014, was duly deducted from his settlement dues. In substantiation of the said assertion, the Respondents/Writ Petitioners have annexed a letter dated 08.09.2014 evidencing that the Applicant vacated the quarter on 29.08.2014. Further, a communication dated 20.01.2015 issued by the Electrical Department regarding deduction of electric rent and disposal of electrical fittings corroborates that the quarter remained in the possession of the Applicant till 29.08.2014. By reference to the aforesaid factual aspects, it is contended that the deduction of damage rent from the settlement dues of the Applicant for the period of unauthorized occupation of railway quarters is in consonance with the applicable Railway Rules and procedures, and hence, the Original Application is liable to be dismissed.

(viii) The learned Tribunal, while adjudicating the Original Application, took note of the circumstance that the quarter in question had already crossed its codal life, was in a dilapidated

condition, and had remained locked for certain periods. Proceeding on such reasoning, the learned Tribunal, vide order dated 05.05.2026, held that the recovery of damage rent is unjustified and accordingly quashed the impugned letter dated 22.09.2015.

(ix) Being aggrieved thereby, the Respondents/Writ Petitioners have instituted the present writ petition.

3. It is admitted from the factual aspect that the sole respondent herein was the applicant before the Tribunal.

4. The applicant, who started his service career on 29.03.1979 as Wireman Grade-I was implicated in a departmental proceeding and vide order dated 29.03.2007 he was imposed punishment of dismissal by Disciplinary Authority and later on the Appellate Authority modified the 'Dismissal order of applicant to 'Compulsory retirement with full pensionary benefits vide order dated 30.01.2008 from the date the order was imposed by Disciplinary Authority.

5. The sole Respondent had earlier approached the learned Tribunal by instituting Original Application No. 803 of 2008 assailing the order of the Disciplinary Authority as well as that of the Appellate Authority. The said Original Application came to be dismissed vide order dated 08.04.2011. The dismissal order was thereafter carried in challenge before this Court and subsequently before the Hon’ble Apex Court. With the dismissal of the Special Leave Petition, the

order of compulsory retirement has attained finality.

6. The Respondent, upon non-release of his pensionary benefits, instituted O.A. No. 651 of 2015 before the learned Tribunal at Patna. In the said proceedings, the Respondents/Writ Petitioners filed their written statement enclosing letter dated 22.09.2015, whereby a sum of Rs. 2,24,497/- was recovered from arrears of pension relief on account of damage rent.

7. The Tribunal, by order dated 24.02.2016, disposed of the Original Application as infructuous, observing that retiral dues had already been released, and further held that damage rent constituted an independent cause of action, granting liberty to the Applicant to pursue his grievance in an appropriate forum.

8. The Applicant thereafter submitted representations before the Railway Administration challenging the recovery order dated 22.09.2015, but no action ensued. Subsequently, upon obtaining letters dated 02.09.2019 and 04.01.2022 under the RTI Act, 2005, the Applicant contended that the quarters in question had crossed their codal life, were dilapidated, unsafe, and had been vacated on 28.05.2011 and 14.11.2011, thereby rendering the recovery wholly unjustified.

9. In opposition, the Respondents/Writ Petitioners asserted that the Applicant had continued in unauthorized occupation of the railway quarter until 29.08.2014, and accordingly damage rent for the period 01.08.2007 to 29.08.2014 was deducted from his settlement

dues. Reliance was placed upon a letter dated 08.09.2014 evidencing vacation of the quarter on 29.08.2014, and a communication dated 20.01.2015 from the Electrical Department regarding deduction of electric rent and disposal of fittings, to substantiate continued possession.

10. The learned Tribunal, however, upon adjudication of the Original Application, observed that the quarter had crossed its codal life, was dilapidated, and remained locked for certain periods, and on such reasoning, vide order dated 05.05.2026, quashed the impugned recovery order dated 22.09.2015.

11. Being aggrieved thereby, the Respondents/Writ Petitioners have preferred the present writ petition.

Submissions of the learned DSGI appearing for the writ petitioners:

12. Mr. Prashant Kumar Singh, learned DSGI appearing on behalf of the writ petitioner, respondent before the learned Tribunal, has submitted that consequent upon the compulsory retirement, the respondent (applicant before the learned tribunal) ceased to be entitled to retain the Railway accommodation beyond the permissible period prescribed of four months under the Railway rules and upon expiry of the permissible period, continued occupation automatically becomes unauthorized and the employee/applicant becomes liable to payment of damage rent at the prescribed rates till the date of actual vacation and handling over the possession.

13. It has further been submitted that despite cessation of the service, the respondent/applicant failed to vacate and hand over possession of Railway Quarter No. 123/C, Type-II, Sahibganj within the permissible prescribed period under the Railway Rules.

14. It has been contended that the respondent/applicant himself disclosed in his Settlement Booklet that he continued to be in occupation of the Railway Quarter allotted to him. Thereafter, the competent authority processed the settlement dues of the respondent in accordance with the applicable Railway rules. Since the Railway accommodation had not been vacated within the permissible period, damage rent became recoverable for the period of unauthorized occupation.

15. It has further been contended that the Railway records establish that the respondent actually handed over the possession of the quarter only on 29.08.2014, where after the Estate authorities accepted the vacation of the quarter, as such, it is the liability of the sole respondent, applicant before the Tribunal to make payment of the damage rent as per the policy decision of the writ petitioner.

16. It has further been submitted that the Electrical Department also issued communication dated 20.01.2015 regarding deduction of electricity charges and disposal of electrical fittings consequent upon vacation of the quarter. The said communication also records that the quarter remained under the allotment of the respondent till 29.08.2014.

17. It is submitted that after due calculation, damage rent was recovered from the settlement/retiral dues of the respondent. The said recovery formed part of the total recovery of Rs. 2,24,497/- effected from the retiral dues of the respondent under different heads, namely arrear of pay and dearness allowance (Rs. 30,582/-), difference of leave salary (Rs. 2,416/-), revised DCRG (Rs. 1,88,749/) and the arrears of pension relief (Rs. 2750/-), and the details whereof were communicated through Office Letter No. E/Pen/MLDT/ONR/6155 dated 22.09.2015.

18. It has been contended that the fact about the locking of the quarter from January 2011 to August, 2014 has not been taken into consideration in right perspective, and merely on consideration of the fact that the quarter has been vacated by the petitioner on 28.05.2011 & 14.11.2011, the decision so taken by the authority on 22.09.2015 has been quashed and set aside. Therefore, the order passed by the learned Tribunal suffers from an error.

Analysis:

19. This Court has heard the learned counsel for the writ petitioner.

20. This Court, before proceeding to assess the legality and propriety of the order passed by the learned Tribunal deem it appropriate to refer about the jurisdiction which has been conferred to this Court to look into the legality and propriety of the order passed by the Tribunal under its power of Judicial Review as per the judgment pronounced by the Hon'ble Apex Court rendered in the case of ***L.***

Chandra Kumar vs. Union of India and Ors., (1997) 3 SCC 261.

21. The power which is to be exercised as per the position of law is to look into the legality and propriety of the order passed by the learned Tribunal in exercise of power conferred under the power of judicial review as has been held by the Hon'ble Apex Court at paragraph- 99 in the aforesaid judgment. The said paragraph is being referred as under:

> *"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323-A and 323- B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323- B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."*

22. The power of judicial review has also been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.

23. The Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39,*** has held at paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned order is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under: -

> *"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . ---."*

24. In the case of ***T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250***, their Lordship have held that the patent error in a decision can

be corrected by writ of certiorari, when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

> *"11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision. ...."*

25. Thus, on the basis of the aforesaid settled legal position it is evident that the power of judicial review can be exercised, if error on the face of the order impugned, challenged under the Article 226 of Constitution of India, appears to be there or suffers from perversity.

26. The word "perverse" has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in ***Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206*** while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

> *"24. The expression "perverse" has been dealt with in a number of*

cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.

25. In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.

26. In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined "perverse" as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

27. The expression "perverse" has been defined by various dictionaries in the following manner:

1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn.

"Perverse.--Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable."

2. Longman Dictionary of Contemporary English, International Edn. Perverse.--Deliberately departing from what is normal and reasonable.

3. The New Oxford Dictionary of English, 1998 Edn. Perverse.--Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.) Perverse.--Purposely deviating from accepted or expected behavior or opinion; wicked or wayward;

stubborn; cross or petulant.

5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.

"Perverse.--A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.""

27. Thus, from the aforesaid it is evident that if any order made in conscious violation of pleading and law then it will come under the purview of perverse order. Further "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. Thus, "perversity" refers to a finding or decision so unreasonable or irrational that no reasonable person acting judicially could have reached it. It signifies a gross and unreasonable assessment of evidence or law by a court.

28. Further Perversity is a high threshold for intervention, distinguishing it from a mere error of fact or law. The "safest approach on perversity is the classic approach on the reasonable man's inference on the facts but inadequacy of evidence or a different reading of evidence is not perversity, reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Damodar Lal v. Sohan Devi, (2016) 14 SCC 197.***

29. It is thus evident from the interpretation of the word "perverse" that the erroneous finding without consideration of the fact will be said to be perverse order.

30. In the backdrop of the aforesaid settled position of law this Court is now proceeding to examine the factual aspect in order to come to

the conclusion on the issue of legality and propriety of the order passed by the learned Tribunal.

31. This Court is now proceeding to examine the legality and propriety of the order passed by the learned Tribunal under the power of Judicial Review which is being exercised under Article 226 of the Constitution of India.

32. The undisputed fact herein is that the sole respondent while working as Workman Gr.-I had been allotted a quarter being Quarter No. 123/C, Type-II, Sahibganj.

33. The petitioner although on the earlier decision was dismissed from service but subsequently the order of dismissal was modified to that of compulsory retirement holding the writ petitioner entitled for full pensionary benefit in consequence of the compulsory retirement.

34. The order of compulsory retirement has attained its finality by dismissal of Special Leave Petition by the Hon'ble Apex Court as has been taken note by the Tribunal while dealing with the facts as under Para- 2 of the impugned order.

35. The cause of action for the sole respondent to invoke the jurisdiction of the learned Tribunal emanates from the allegation of unauthorized retention of the quarter during the period from 01.08.2007 to 29.08.2014.

36. The writ petitioners have specifically pleaded that the quarter continued to be retained by the applicant up to 29.08.2014, whereas the categorical stand of the applicant, as urged before the Tribunal,

is that after his dismissal followed by modification of punishment to compulsory retirement, the applicant had no cause to remain at Railway Quarter and the applicant remained outstation in the process of pursuing his litigations, he could not submit the quarter vacation letter to the administration on time which was admittedly submitted by him in the year 2014 through his application dated 09.09.2014, but the respondents deducted the retiral dues and other amounts of applicant vide impugned order dated 22.09.2015 for a railway quarter which was very old, crossed its codal life and was in dilapidated condition and as per the letter dated 02.09.2019 and 04.01.2022 said quarters had been lastly vacated on 28.05.2011 and 14.11.2011, therefore deduction from applicant up to the period September, 2014 is wholly unjustified.

37. It is an admitted position that the writ petitioners have relied upon Letter No. 114/SSE/ELECT/G/SBG communication dated 20.01.2015 (Annexure-6), which was issued in connection with deduction of electricity rent and related charges, and has also been enclosed as Annexure R/3 in the written statement. From the said communication, it stands recorded that the quarter remained locked from January, 2011 till August, 2014. This documentary evidence clearly establishes that the applicant was not residing in the quarter during the relevant period.

38. From the pleadings advanced on behalf of the sole respondent and upon perusal of Annexure-7A appended to the instant writ petition,

it emerges that the quarter was vacated on 28.05.2011 and 14.11.2011, and alternate accommodation had already been provided to the concerned staff. This fact further stands corroborated by the communication dated 20.01.2015 (Annexure-6), wherein it was recorded that the quarter remained locked from January, 2011 till August, 2014.

39. Thus, the fact about allotment of the alternate accommodation is not disputed and further as would be evident from the aforesaid letter communicated dated 20.01.2015, that the quarter was found to be locked since January, 2011 to August, 2014.

40. In view of the materials on record, there remains no manner of doubt that the quarter in question had remained under lock from January, 2011 till August, 2014, which by necessary implication establishes that the petitioner was not in possession thereof during the said period.

41. Furthermore, it is not in dispute that the electricity meter had been installed in the quarter in question and, as reflected in Annexure-6, the said quarter remained locked from January, 2011 till August, 2014. In the face of such documentary evidence, the contention advanced by the writ petitioners that the applicant/respondent continued to remain in possession of the quarter during the aforesaid period cannot be accepted as a correct statement of fact.

42. Even assuming, for the sake of argument, that the applicant had continued in possession of the quarter in question, the responsibility

to secure its evacuation rested solely upon the employer, inasmuch as the petitioner had already been detached from service in the year 2007. No endeavour appears to have been undertaken by the employer or the authority concerned to effectuate such eviction, and the failure in this regard cannot be attributed to the applicant.

43. Thus, on the basis of the discussion made hereinabove, it is evident that the quarter in question was in an abandoned and dilapidated condition, having crossed its codal life, and that the applicant has stated that he was residing with his brother at Bandel. The communication dated 20.01.2015 (Annexure-R/3) itself records that the quarter remained locked from January, 2011 to August, 2014, thereby negating the allegation of continued occupation. Further, Annexures A/7 and A/8 issued under RTI confirm that the quarters had been vacated on 28.05.2011 and 14.11.2011, with staff being allotted alternate accommodation. Thus, in such circumstances, mere non-submission of a quarter vacation certificate cannot furnish a valid ground for recovery of damage rent in a situation when another quarter has been allotted, particularly when the quarter was not habitable and the applicant had already been compulsorily retired in 2007. The recovery effected from the DCRG of the applicant is, therefore, unjustified and unsustainable in law, being contrary to the respondents' own documentary record.

44. The learned Tribunal, upon consideration of the aforesaid premise,

particularly the contents of the communication dated 20.01.2015 (Annexure-6), wherein it stood revealed that the quarter remained locked from January, 2011 till August, 2014, and further taking note of Annexure-7A, which records that the quarters had been vacated on 28.05.2011 and 14.11.2011, as well as the fact of allotment of alternate accommodation, came to the conclusive finding that the decision to effect recovery from the arrears of pensionary benefits of the sole respondent could not be regarded as just or proper. It was on this basis that the learned Tribunal found occasion to interfere with the impugned recovery.

45. Thus, on the basis of the discussion made hereinabove, it is the considered view of this Court that the order impugned dated 05.05.2026 passed by the learned Tribunal does not suffer from any error.

46. The other aspect, though not adverted to by the learned Tribunal, pertains to the propriety of the decision to effect recovery from the arrears of pensionary benefits of a Class-III employee.

47. It needs to refer herein that the Hon'ble Apex Court on the issue of recovery from the Class III employee has propounded the guidelines in the case of ***State of Punjab and Ors. vs. Rafiq Masih (White Washer) and Ors., (2015) 4 SCC 334*** at Para 18 which is being referred herein:

> *"18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their*

entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the 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."

48. The recovery cannot be allowed to be made if any of the conditions as under condition nos.(i) to (v) is there and in addition to that if the court comes to the conclusion in making recovery, the concerned employee will be put to great hardship then the Court can pass order quashing and setting aside the order of recovery.

49. Admittedly herein, the writ petitioner was holding the post of class-III and as per the guidelines formulated by the Hon'ble Apex Court in the case of ***State of Punjab and Ors. vs. Rafiq Masih (White Washer) and Ors. (supra)*** as under paragraph-18 which contains five parameters having one of the parameters that there cannot be any recovery from the class-III employee.

50. The petitioner-Wireman Gr.-I and on the allegations of retention of quarter, the amount has been decided to be recovered from the arrears of pensionary benefits, hence the case of the sole respondent is coming under the Para-18 of the judgment rendered in the case of ***State of Punjab and Ors. vs. Rafiq Masih (White Washer) and Ors.*** **(supra).**

51. In view of the foregoing discussion on facts and law, this Court is of the considered opinion that the order dated 05.05.2026 passed by the learned Tribunal neither discloses any error apparent on the face of the record nor suffers from perversity. Consequently, it is not a fit case warranting interference in exercise of the power of judicial review under Article 226 of the Constitution of India.

52. Accordingly, the instant petition is dismissed, and as such, disposed of.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

17th September, 2026
Samarth
Uploaded on 26.09.2026

A.F.R.