* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on:22.12.2025
Pronounced on: 16.01.2026

\+ **W.P.(C) 19448/2025 & CM APPL. 81118/2025**

UNION OF INDIA & ORS. .....Petitioners
Through: Mr.Piyush Gupta, CGSC.

Versus

PAWAN KUMAR JAIN (EX-CGS) .....Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. The present petition has been filed by the petitioner, challenging the Order dated 16.07.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 2039/2020, titled as ***Pawan Kumar Jain v. Union of India & Ors.,*** filed by the respondent herein, whereby the learned Tribunal has partly allowed the said O.A., with the following directions:

> *"8. In view of the same, we disposed of the present matter by partly allowing the O.A. to the extent that we direct the respondents that a refixation order of the pay and pension of the applicant be passed, taking into account that the amount to be recovered is for the*

withholding of increments for three years from19.08.1998 to be confined to the date of his promotion on 01.03.2002. Subject to the said adjustment, the refund of the balance amount is to be made to the applicant out of the amount already recovered from the applicant, i.e. Rs. 8,11,083/-. Since the respondents are at fault, the appropriate orders for the restoration of pay are accordingly to be issued and the pay of the applicant is restored to the basic pay of Rs. 64,100/. The said exercise shall be completed by the respondents within a period of three months from the date of receipt of a certified copy of this order. The O.A. is allowed in the above terms. Pending M.As, if any, are also disposed of. No order as to costs."

FACTS OF THE CASE

2. In succinct, the background of the case is that the respondent joined the services of Northern Railway on 03.10.1986 as a Goods Clerk and was promoted to the post of Sr. Goods Clerk in the pay grade of Rs.1200-2040 and then as the Head Goods Clerk in the pay grade of Rs.5000-8000.

3. While he was serving as a Goods Supervisor, disciplinary proceedings were initiated against him, in the year 1997–1998 under the Railway Servants (Discipline and Appeal) Rules, 1968, in relation to certain lapses in the performance of his official duties.

4. Upon conclusion of the disciplinary proceedings, the competent Disciplinary Authority, *vide* order dated 19.08.1998, imposed a minor penalty of 'withholding of increments for a period of three years without cumulative effect'. The said penalty order was duly

communicated to the respondent.

5. It is an undisputed fact that the respondent neither challenged the penalty order by way of appeal or revision nor questioned its legality at any point of time. Consequently, the penalty order attained finality and remained valid and subsisting.

6. It is the case of the petitioners that due to an administrative oversight, the said penalty was not implemented in the respondent's service records at the relevant time. As a result, the respondent continued to draw increments in the normal course and was promoted to the higher pay scale of Rs.5000–8000 with effect from 26.04.1999, during the subsistence of the penalty period. His pay was fixed at the minimum of the promotional scale, and further increments were granted thereafter.

7. The respondent continued to draw salary and consequential benefits on the basis of the aforesaid pay fixation throughout the remainder of his service. He, ultimately, retired from service on 31.05.2020 upon attaining the age of superannuation, while holding the post of Chief Goods Supervisor.

8. At the time of processing the respondent's retirement and pensionary benefits, a scrutiny of his service records revealed that the penalty imposed *vide* Order dated 19.08.1998 had never been implemented. In order to give effect to the penalty order, which had already attained finality, the petitioners issued an order dated 20.04.2020, retrospectively implementing the penalty from the due date. Consequently, upon refixation of the respondent's pay and

review of the promotion granted during the penalty period, an excess payment amounting to Rs. 8,11,083/- was computed and recovered from his Death-cum-Retirement Gratuity (hereinafter referred to as 'DCRG').

9. Aggrieved by the recovery and the refixation of pay, the respondent submitted a representation dated 11.08.2020 seeking refund of the recovered amount and restoration of his pay. The said representation was rejected on the ground that the recovery had been effected to enforce a valid disciplinary penalty and to rectify an error made on the part of the petitioner which had resulted in excess payment.

10. Thereafter, the respondent approached the learned Tribunal by filing the O.A., seeking refund of the recovered amount, restoration of his basic pay, and consequential revision of pensionary benefits.

11. The learned Tribunal, *vide* the Impugned Order, partly allowed the Original Application, while holding that the penalty order dated 19.08.1998 was valid and had not been challenged by the respondent, the learned Tribunal directed that the recovery should be confined to the period of withholding of increments from 19.08.1998 up to the date of promotion on 01.03.2002. The learned Tribunal further directed restoration of the respondent's basic pay to Rs. 64,100/- and refund of the remaining amount out of Rs.8,11,083/- recovered from his retirement dues.

12. Aggrieved of the Impugned Order, the petitioner has filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS

13. The learned counsel for the petitioner submits that the learned Tribunal has gravely erred in partly allowing the O.A., despite recording a clear and categorical finding that the penalty order dated 19.08.1998, imposing punishment of withholding of increments for three years without cumulative effect, was valid, subsisting, and had never been challenged by the respondent at any stage.

14. The learned counsel further submits that due to an administrative lapse, the penalty imposed on 19.08.1998 was not implemented in the respondent's service records, which resulted in the respondent being granted promotion to the higher grade of Rs. 5000–8000 *vide* Office Letter No. 758E/577/P2 dated 26.04.1999, during the subsistence of the penalty period. He submits that had the penalty been implemented in time, the respondent would not have been eligible for promotion prior to completion of the penalty period, that is, till 30.08.2002.

15. He submits that the error came to light in April 2020 while examining the respondent's service records for processing his retirement dues. Upon detecting the lapse, the petitioners issued an Order dated 20.04.2020 implementing the penalty retrospectively from its original date and revised the respondent's pay accordingly. As a consequence, an excess payment of Rs. 8,11,083/- was computed and recovered from the respondent's DCRG. He further submits that the

penalty was given retrospective implementation *vide* Office Letter No. 729E/25/2352/P2 dated 20.04.2020, and the respondent's promotion and pay fixation were accordingly reviewed and the recovery effected *vide* the aforesaid Order was not punitive in nature but was a lawful administrative correction undertaken to prevent unjust enrichment of the respondent.

16. Reliance is placed upon the Judgment of this Court in ***Bank of Baroda v. Gurdev Singh Minhas,*** 2025:DHC:1979-DB, to submit that the employee cannot insist upon continuance of pension on an incorrect or inflated figure. He submits that this Court has emphasized that, at the very least, the pension must be paid prospectively in accordance with the revised Pension Payment Order which reflects the correct entitlement.

ANALYSIS AND FINDINGS

17. We have considered the submissions advanced by the learned counsel for the petitioners and have perused the material on record.

18. None has appeared on behalf of the respondents.

19. From the above, the issue that arises for consideration is whether recovery of Rs. 8,11,083/- from the respondent’s retiral dues at the time of his superannuation, after an inordinate delay, on account of administrative lapse in implementing a valid penalty, is legally sustainable when the respondent is not at fault.

20. Upon perusal of the record, it is evident that the respondent was imposed a minor penalty of withholding of increments for three years

without cumulative effect vide order dated 19.08.1998, which admittedly attained finality, as it was never challenged. It is also undisputed that the said penalty order was not implemented by the Department for a prolonged period due to an administrative lapse, with no fault of the respondent. Consequently, the respondent continued to draw increments, was promoted in due course, and his pay was fixed accordingly.

21. The failure to give effect to the penalty order at the relevant time was entirely on account of the department's omission. The recovery of Rs. 8,11,083/- was effected only at the stage of retirement, that is upon the respondent's superannuation on 31.05.2020, when he was drawing pay as fixed by the employer itself. The said recovery was given a retrospective effect after a lapse of more than 20 years from the date of imposition of penalty.

22. The question as to whether the employer can, after such an inordinate delay and at the stage of superannuation, recover the alleged excess amount from retiral dues, is no longer *res integra*. The Supreme Court in ***State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.,*** (2015) 4 SCC 334, has laid down clear circumstances where recovery of excess or wrongful payments would be impermissible in law. The relevant portion is extracted as under:

> "*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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, 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.*

23. The present case squarely falls within more than one of the aforesaid categories. The submission of the petitioners that recovery was merely a "lawful administrative correction" cannot override the equitable limitations imposed by the Supreme Court in ***Rafiq Masih*** (supra)

24. So far as reliance of the learned counsel for the petitioners on the judgment of ***Gurdev Singh Minhas*** (supra) is concerned, we do not find merit in the said submission. The facts in the said case were materially distinct, inasmuch as the issue concerned erroneous fixation

of pension, which was subsequently corrected by issuance of a revised Pension Payment Order. In the present case, recovery was sought from Death-cum-Retirement Gratuity at the time of superannuation by retrospectively reopening pay and promotion matters spanning over two decades, solely on account of a departmental lapse in implementing a penalty.

CONCLUSION

25. In view of the settled legal position laid down in ***Rafiq Masih*** (supra), the present writ petition, being bereft of merit, is dismissed. The Impugned Order of the learned Tribunal is upheld.

26. The pending applications, if any, are disposed as being infructuous.

27. There shall be no orders as to costs.

MADHU JAIN, J

NAVIN CHAWLA, J.

JANUARY 16, 2026/Av/as