



2026:AHC:30974-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 19028 of 2025

Ram Briksh Yadav

.....Petitioner(s)

Versus

Union of India and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Amardeo Singh
Counsel for Respondent(s)	: A.S.G.I., Ashok Singh

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. Heard Shri Amardeo Singh, learned counsel for the petitioner and Shri Ashok Singh, learned counsel appearing for the respondents.
2. This writ petition has been filed challenging observations, findings and conclusion recorded in 7th paragraph of the impugned order dated 13.11.2025 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad ('Tribunal') in Original Application ('OA') No.106 of 2020 (Ram Briksh Yadav v. Union of India and others), whereby the Tribunal has declined to grant second relief prayed for by the petitioner in the said OA claiming refund of the amount of gratuity of Rs.6,12,751/- along with 18% interest p.a. Second prayer made in the writ petition is to direct the respondents to refund the said amount along with interest at the same rate.
3. The petitioner, who was working as store issuer in the respondent-department, having attained age of superannuation, retired on

31.12.2019. He had a grievance regarding wrong fixation of grade pay, fixation of his pension and computation of retiral benefits towards lower side. His case before the Tribunal was that though the gratuity amount had been initially calculated as Rs. 6,56,897/-, only a sum of Rs. 44,146/- was disbursed to him and remaining amount of Rs.6,12,751/- was deducted without issuing any notice and providing any opportunity to him.

4. The OA was filed wherein first prayer was made to direct the respondents to issue fresh amended Pension Payment Order (P.P.O.) and fix the pension of the applicant-petitioner on the last emoluments of 10 months before his retirement which was drawn as 5200-20200 + Grade Pay of Rs.2000/- (Level-3), accordingly, pay the difference of arrears of pension, also make the settlement of retiral benefits and pay the difference of arrears of retiral benefits with 18% interest p.a. to him. The petitioner also claimed refund of the recovered amount of gratuity of Rs. 6,12,751/- with 18% interest, as already indicated above.

5. The Tribunal found the petitioner entitled to be considered for fixation of pension and remanded the matter to the respondent No.3 to examine his grievance for fixation of P.P.O. in accordance with Rule 50 of the Railway Services (Pension) Rules, 1993 and pass an appropriate order. The Tribunal further observed that if the applicant was entitled to higher grade pay, his pension would be fixed in the enhanced pay-scale on the basis of the last 10 months' average emoluments paid to him and if he is found entitled to any arrears, the same shall be paid to him at the rate of 6% p.a.

6. Learned counsel for the petitioner submits that though the first relief claimed by the petitioner has been granted by the Tribunal to him, denial to grant second relief, *vide* 7th paragraph of the order impugned, is not justified, inasmuch as, the Tribunal has misread the document Annexure A-6 to the OA and, thereby, wrongly arrived at a conclusion that a sum of Rs.3,52,764/- had already been refunded to the petitioner *vide* order 19.03.2018.

7. Submission is that Annexure A-6 was a document related to OA No.1064 of 2016 which had not been filed by the petitioner, rather by a different person, namely Sheo Ram and the same came in existence pursuant to order dated 20.09.2016 passed by the Tribunal in the case of Shoe Ram which was annexed only for reference purposes as, in that case, the Tribunal had granted relief to Sheo Ram after placing reliance upon the judgment of Hon'ble Supreme Court in **State of Punjab & others v. Rafiq Masih (White Washer) : (2015) 4 SCC 334** and directed the department to refund the entire amount recovered from the said applicant within six weeks.

8. In sum and substance, the contention is that the Tribunal has wrongly assumed that a sum of Rs.3,52,764/- had been refunded to the petitioner which observation of the Tribunal ultimately formed the basis of denial to grant second relief claimed and since the said finding is essentially based upon proceedings in the case of a different person and not that of the petitioner, the order impugned to that extent is unsustainable and be set aside.

9. *Per contra*, learned counsel for the respondents, though attempted to support the order passed by the Tribunal, very fairly conceded that the observations made in 7th paragraph of the order treating the OA No.1064 of 2016 as having been filed by the petitioner, is an inadvertent error on the part of the Tribunal.

10. We have considered the submissions made before us and have perused the material available on record.

11. The only thing to be considered in the present case is as to whether denial to grant second relief claimed by the petitioner, based upon the proceedings of OA No.1064 of 2016, as noted in 7th paragraph of the Tribunal's order, is just and proper. For the said purpose, it is necessary to reproduce 7th paragraph of the order impugned, which reads as under:-

“7. From the reliefs sought, it appears that the first controversy relates to the issue of the revised P.P.O. based on the last ten months' emoluments, and the second pertains to the recovery and refund of the gratuity amount of Rs. 6,12,751/- along with interest.

With regard to the second issue of recovery of Rs. 6.12,751/- from the gratuity, there is no specific order available on record. However, from Annexure A-6, it appears that O.A. No. 1064 of 2016 had earlier been filed before this Tribunal, and in pursuance of the order passed therein, the amount so recovered was refunded. The refunded amount of Rs. 3,52,764/- was returned to the applicant vide order dated 19.03.2018. In the pleadings, the applicant has mentioned this fact in paragraphs 4.7 and 4.8 of the O.A., relying upon Annexure A-6. However, the factual averments therein are contrary to Annexure A-6, not only regarding the amount but also concerning the nature of recovery. In fact, the recovered amount of Rs. 3,57,764/- was refunded after the order passed by this Tribunal in O.A. No. 1064 of 2016, and the said order has not been challenged. Therefore, we are not inclined to grant any relief with regard to Relief No. 2.”

12. The conclusion drawn by the Tribunal to deny relief No.2 is based upon only an order passed in OA No.1064 of 2016. The said order, appended as Annexure No.8 to the writ petition, indicates that the said OA was filed by one Sheo Ram who had retired in 2015 and was issued P.P.O. and had also claimed somewhat identical reliefs before the Tribunal. Annexure A-6 to the OA was, in fact, an order dated 19.03.2018 passed by the authority of the department in furtherance of the order passed by the Tribunal in O.A. No.1064 of 2016 filed by Sheo Ram. The said order reads as under :-

“आख्यापक आदेश

माननीय केन्द्रीय प्रशासनिक न्यायाधिकरण, इलाहाबाद द्वारा मूल वाद सं० 330/01064/2016 में दिये गये आदेश दिनांक 20.09.2016 एवं 05.09.2017 के अनुपालन में वादी श्री शिवराम के प्रतिवेदन दिनांक 22.12.2015 के परीक्षणोंपरांत पाया गया कि वादी की रेल सेवा में नियुक्ति दिनांक 01-01-84 को ग्रुप "डी" में की गयी थी एवं इन्हें दिनांक 16.04.87 को तदर्थ पदोन्नति के फलस्वरूप कारपेन्टर के पद पर पदोन्नति दी गयी । पुनः उप मुसिदूई/निर्माण/पूर्व/गोरखपुर के ज्ञापन दिनांक 30.05.2007 के द्वारा इन्हें ए०सी०पी० के तहत वेतनमान 4000-6000/ ग्रेड पे 2400/- का लाभ दिया गया। कर्मचारी के सेवानिवृत्ति दिनांक 31.05.2015 के समय तदर्थ पदोन्नति/ए०सी०पी० के तहत दिये गये पदोन्नति/वित्तीय उन्नयन को गलत मानकर उक्त के फलस्वरूप किये गये भुगतान रु०3,52,764/- की राशि को कर्मचारी के उपादान राशि एवं अवकाश नकदीकरण के राशि से कटौती कर ली गयी।

रेलवे बोर्ड पत्र दिनांक 19.08.2010 एवं 09.06.2011 के अनुपालन में जारी म०प्र०/कार्मिक/गोरखपुर के पत्रांक- ई/ई/227/20/2/क्लास-III/सी०एल०/iv दिनांक 11.11.2013 के अनुसार महाप्रबन्धक स्तर पर यह निर्णय लिया गया है कि निर्माण संगठन में तदर्थ पदोन्नति के फलस्वरूप कर्मचारी द्वारा उच्चतर पद पर किये गये कार्य

के बदले किये गये भुगतान की कटौती नहीं की जानी है तथा पूर्व में इस मद में की गयी कटौती को सम्बन्धित कर्मचारियों को वापस किये जाने का निर्णय लिया गया है।

उक्त के आलोक में माननीय न्यायालय के आदेश दिनांक 20.09.2016 एवं दिनांक 05.09.2017 तथा म०प्र०/कार्मिक/गोरखपुर के पत्र दिनांक 11.11.2013 के निर्देशानुसार वादी श्री शिवराम तत्कालीन कारपेंटर के उपादान राशि एवं अवकाश नकदीकरण राशि से अधिक भुगतान के मद में की गयी कटौती की कुल राशि रु० 3,52,764/- को भूतपूर्व कर्मचारी के पक्ष में वापस किये जाने का निर्णय लिया जाता है।

ह०अ०
(प्रदीप कुमार)
वकाधि/निर्माण/गोरखपुर"

13. Apparently, the decision to refund a sum of Rs.3,52,764/- was in relation to Sheo Ram and not in relation to petitioner. It stands reflected that the Tribunal reserved the order on 27.08.2025 and delivered it after about more than two months on 13.11.2025 and probably for this reason, the Tribunal somehow misread the record of the OA and erroneously utilized proceedings in relation to Sheo Ram to non-suit the petitioner herein. The error committed by the Tribunal, being an error clearly apparent on the face of the record, we are of the considered view that the reason assigned for not granting second relief to the petitioner, cannot be sustained.

14. Apart from this, we find that it was not the case of the respondents before the Tribunal that any amount out of recovered amount of gratuity, had ever been refunded/returned to the present petitioner. The pleadings contained in paragraph 4.7 and 4.8 of the OA and its response contained in paragraphs 15 and 16 of the counter affidavit filed before the Tribunal, do not give any such indication and, therefore, the Tribunal has carved out a third case beyond the case of the parties.

15. We are also of the view that once the first relief has been granted to the petitioner by the Tribunal and the same has not been challenged by the respondents, necessary consequence would be that deduction of/ recovery from the amount of gratuity admissible to the petitioner is unjust and inappropriate and, therefore, following the law laid down by

the Hon'ble Supreme Court in **Rafiq Masih (Supra)**, the petitioner is found entitled to get the second relief also.

17. Consequently, the writ petition is **allowed**.

18. Observations made and findings recorded in 7th paragraph of the impugned order dated 13.11.2025 passed by the Tribunal are hereby **set aside**.

19. Second relief claimed by the petitioner in OA as well as in this writ petition is granted to him and a direction is issued to the respondents to refund to the petitioner a sum of Rs.6,12,751/- along with interest @ 6% p.a. from the date of his retirement till the date of actual payment to him, within a period of **two months** from the date a certified/true-attested copy of this order is filed by the petitioner before the competent authority.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

February 11, 2026
Jyotsana