

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Review Application No.180/00042/2018  
in Original Application No.180/00333/2017**

**Friday, this the 10<sup>th</sup> day of August, 2018**

**CORAM:**

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

K.P.Kunju,  
S/o.late Appukuttan,  
Gangmate (Retd.), Southern Railways, (Palakkad Division).  
Kulangaraparambil House, Painkulam P.O.,  
Cheruthuruthy, Thrissur District – 679 531. ...Review Applicant

**(By Advocate Mr.C.S.G.Nair)**

**V e r s u s**

1. Financial Advisor and Chief Accounts Officer,  
Southern Railways, Chennai – 600 003.
2. Divisional Railway Manager,  
Southern Railways, Palakkad Division,  
Palakkad – 678 010.
3. Union of India represented by the General Manager,  
Southern Railways, Chennai – 600 003.
4. Chief Manager,  
State Bank of India,  
Centralized Pension Processing Centre,  
L.M.S Compound, Vikas Bhavan P.O.,  
Thiruvananthapuram – 695 033.
5. Branch Manager,  
State Bank of India,  
Shornur, Palakkad Dist. ...Review Respondents

**O R D E R (Under Circulation)**

This R.A has been filed by the applicant in the O.A seeking a review of order dated 27.6.2018 passed in O.A.No.180/333/2017 and for a direction to the respondents not to recover any amount paid prior to September, 2014. It

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is mainly contended that notice of actual excess payment was given only along with the reply statement filed in August 2017. It is also submitted that as per the Limitation Act, the Bank is barred from recovering any amount relating to a period beyond three years.

2. As mentioned in the order at Annexure R.A-1, the subsequent judgment of the Hon'ble Supreme Court in **High Court of Punjab and Haryana & Ors. v. Jagdev Singh AIR 2016 SC 3523** distinguishes **State of Punjab & Ors. v. Rafiq Masih (White Washer) & Connected cases** reported in **AIR 2015 SC 696** where undertakings were furnished by the employees. In the said judgment the Apex Court had held :

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.

3. Based on the above none of the five categories mentioned in Rafiq Masih would be eligible for relief in the event that an undertaking had been obtained by the applicant that he would be liable to reimburse any amount which may be credited to his account by an error. In this case, as per the undertaking referred to, the review applicant had clearly been put on notice. Hence the Limitation Act would have no relevance. Besides, this was an argument which did not form part of the pleadings, when the O.A was considered.

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4. Due to the above reasons, the Review Application is dismissed. No costs.

(Dated this the 10<sup>th</sup> day of August 2018)

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

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**List of Annexures in R.A.No.180/00042/2018 in O.A.No.180/00333/2017**

**1. Annexure RA-1** – True copy of the order dated 27.6.2018 in O.A.No.333/2017.

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