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

\# **CNR No. DLHC010039132024**

\+ W.P.(C) 1624/2024 & CM APPL. 6712/2024

DELHI DEVELOPMENT AUTHORITY THROUGH ITS VICE CHAIRMAN .....Petitioner

Through: Mr. Sanjay Katyal, Standing Counsel for DDA, Mr Gaganmeet Singh Sachdeva, Mr. Harshpeet Singh Chadha, Mr. Hridyesh Khanna, Mr. Nitish Kumar Danda, Advs.

versus

SH.SURENDER KUMAR CHAWLA .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT (ORAL)

% **09.09.2026**

C. HARI SHANKAR, J.

1. The respondent was appointed as Junior Engineer (Civil) in the Delhi Development Authority[1] in 1981. He was granted his first financial upgradation under the Assured Career Progression Scheme[2] in 2003, his second financial upgradation under the ACP Scheme in 2005 and his third financial upgradation under the Modified Assured Career Progression Scheme[3] in 2011. He superannuated on 31 March 2018 as Assistant Engineer (Civil).

[1] "the DDA" hereinafter
[2] "ACP Scheme" hereinafter
[3] "MACP Scheme" hereinafter

2. By order dated 12 July 2018, the dates of availment of the second financial upgradation under the ACP Scheme and the third financial upgradation under the MACP Scheme were postponed from 2005 to 2009 and 2011 to 2015.

3. By order dated 11 December 2018, the DDA reduced the basic pension of the respondent from ₹ 49,900/- to ₹ 38,950/- per month without issuing any show cause notice.

4. Aggrieved thereby, the respondent approached the Central Administrative Tribunal[4] by way of OA 2499/2019.

5. By judgment dated 9 November 2022, the Tribunal has allowed the said OA, relying on para 18 of the judgment of the Supreme Court in ***State of Punjab v. Rafiq Masih***[5] which reads thus:

> "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.

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[4] "the Tribunal" hereinafter

[5] **(2015) 4 SCC 334**

> (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."

6. The Tribunal has, therefore, set aside the decision to recover the excess payment.

7. Before the Tribunal, as well as before us, the DDA has sought to rely on the judgment of the Supreme Court in ***High Court of Punjab and Haryana v. Jagdev Singh***[6], in which, in the case of recovery from retired persons, the Supreme Court has permitted the recovery to take place where, *at the time when excess payment was made*, the employee concerned subscribed to an undertaking that, in the event of the payment being found to be in excess, recovery could be effected, or was made aware of the fact that such recovery was possible at a later stage.

8. In either case, the undertaking, as law declared by the Supreme Court in ***Jagdev Singh***, would have had to be given at the time when the excess payment was made and not at a later point of time.

9. Mr. Sachdeva, learned Counsel for the DDA candidly

[6] **(2016) 14 SCC 267**

acknowledges that, in the present case, the undertaking was given in 2018 whereas the excess payments were made in 2003 and 2005.

10. Subject to the aforesaid limited window provided in ***Jagdev Singh***, there is an absolute proscription against recoveries in the five circumstances envisaged in para 18 of ***Rafiq Masih*** reproduced supra.

11. Among these, the facts of the present case attracts categories (ii) and (iii) in para 18 of ***Rafiq Masih***, whereunder recoveries of excess payment cannot be made from person who have already retired from service, or more than five years after the payments were made in excess.

12. The only other circumstance in which the principles in para 18 of ***Rafiq Masih*** would not apply is where there is complicity between the employee concerned and the employer in ensuring that excess payments were made.

13. No such allegation exists in the present case.

14. In that view of the matter, we are of the opinion that the Tribunal has rightly allowed the OA relying on the judgment of the Supreme Court in ***Rafiq Masih***.

15. We find no cause to interfere with the impugned judgment of the Tribunal.

16. The writ petition is dismissed.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

SEPTEMBER 9, 2026/*dsn*