



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.4112/2018

This the 13th day of September, 2022

Hon'ble Mr. Ashish Kalia, Member (J)

Sh. Randhir Singh Grewal
Aged about 61 years
S/o Sh. Tara Chand Grewal
R/o 14-B, Janhit Apartment, Plot 25/2,
Sector- 9, Rohini, Delhi- 110085
Mob. No. 8076043209
Post: Pharmacist
Group-C

.....Applicant

(Advocate: Mr. Anuj Aggarwal for Mr. Ashok
Aggarwal)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat, I.P. Estate,
Delhi- 110002
2. Sanjay Gandhi Memorial Hospital
Through its Medical Superintendent
MangolPuri,
Delhi- 110083

....Respondents

(Advocate: Mr. Amit Anand)



ORDER (ORAL)

Hon'ble Mr. Ashish Kalia, Member (J)

In the present Original Application, following reliefs have been sought:

“(i) set aside the impugned Memorandum dated 16.08.2018 (Annexure A-1) whereby the respondent decided to withhold the retiral benefits with pension till the applicant pays Rs. 2,52,000/- in terms of the Memorandum dated 25.01.2018;

(ii) set aside the impugned Memorandum dated 25.01.2018 (Annexure A-2) whereby the respondent decided to recover purported excess payment of Rs. 2,52,000/- from the applicant,

(iii) direct the respondents to pay/release to the applicant all the retiral dues including gratuity, leave encashment, pension, etc.;

(iv) direct the respondents to pay to the applicant interest upon the arrears of pension and other retiral benefits including gratuity, leave encashment, arrears of pension, etc. @ 18% per annum with effect from the date of his superannuation i.e. 31.01.2018 till the date of actual payment;

(v) declare that the recovery of sum of Rs. 2,52,000/- from the applicant by the respondents, on account of purported excess payment, is illegal, unjustified, violative of the principles of natural justice and also in violation of the law declared by the Hon'ble Supreme Court in State of Punjab vs. Rafiq Masih [2015 (4) SCC 334];

(vi) allow the present application with costs in favour of the applicant; and

(vii) issue any other order or direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in favour of the applicant; and”

2. The applicant was working with the respondent, Government of Delhi as pharmacist initially appointed on 11.06.1980 and retired on 21.01.2018. His pay was revised by the OM dated 12.05.2011 his grade pay was fixed

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at Rs.4800 and his next higher grade pay was Rs.5400 in the hierarchy recommended by Pay Commission unified from 11.06.2012. His pay and benefits were revised. The respondents realised that they have excess payment by mistake to the applicant and accordingly ordered recovery of Rs.271418/- being excess payment made on account of MACP benefits vide order dated 11.07.2015. It is stated that the Government of NCT have received this instruction as per the approval given by the Principal Secretary GNCTD on 23.01.2018. Balance amount was to be recovered from the DCRG. Order was issued just at the fag end of applicant's service, i.e., the date of his retirement which is questioned before this Tribunal. It is submitted that the applicant's payments were made for more than a year. The applicant received payment:

S.No.	Retiral Dues	Amount	Date of Payment	No. of days of delay in payment of retiral dues from date of retirement i.e. 31.01.2018
1.	Group insurance scheme amount plus leave encashment	8,04,536/-	17.01.2019	11 Months & 17 days

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2.	Pension Arrears	2,62,150/-	22.01.2019	11 Months & 22 days
3.	Commuted Pension Amount	13,76,592/-	22.01.2019	11 Months & 22 days
4.	Gratuity	9,83,850/-	22.01.2019	11 Months & 22 days
	Total	34,27,128/-		

3. The counsel for the applicant relies upon the judgement of the Hon'ble Apex Court, in the matter of State of Punjab and Others v/s RafiqMasih (White Washer) And Others, (2015) 4 SCC 334.

4. It was categorically held by the Hon'ble Apex Court that recovery cannot be affected by the retired government servant after a long lapse of time. This judgement is applicable.

5. Notices were issued. Respondents put appearance to the learned counsel, Mr.AmitAnand, who has filed a detailed reply. It is reiterated the facts of that excess

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payment was made on account of MACP which is to be recovered as per the direction approval given by the Principal Secretary, Government of NCT. Respondents are bound to recover the same.

6. Heard counsel for the parties at length. The case of the applicant is whether the recovery from the employee can effected after retirement by the respondents. This issue is no more *res integra*.

7. The Hon'ble Apex Court states in the case of **State of Punjab v/s RafiqMasih**, (2015) 4 SCC 334 has decided, if excess payment is made prior to five years, it is not recoverable from the employees post retirement. In view of this, this Tribunal feels that the applicant's case is squarely covered by the decision of the Hon'ble Supreme Court in **RafiqMasih** case (supra). This OA has got merit, it is hereby directed to the respondents to release the amount so recovered i.e., Rs.2,71,418/- within a period of 60 days to the applicant along with interest at GPF rates. The rate of interest shall be paid for the period of delay which comes to as 3 months time are already supposed to be taken by the respondents calculating the

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retiral benefits. With this, OA is allowed with no orders passed. No costs.

(AshishKalia)
Member(J)

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