



2025:DHC:3915-DB



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

Date of decision: 16.05.2025

+ LPA 327/2025

NATIONAL SEEDS CORPORATION LIMITED THROUGH
ITS AGM (LEGAL)Appellant

Through: Mr. Sanjay K. Shandilya and
Mr. Adit Srivastava, Adv.

versus

PANKAJ KUMAR PRASADRespondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 29918/2025

1. This application seeks condonation of a delay of 96 days in filing the appeal.
2. For the reasons stated in the application, the delay in filing the appeal is condoned.
3. The application stands disposed of.

CM APPL. 29919/2025

4. This application seeks condonation of a delay of 11 days in re-filing the appeal.
5. For the reasons stated in the application, a delay of 11 days in re-filing the appeal is condoned.
6. The application stands disposed of.

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7. This appeal has been filed by the appellant, challenging the



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Judgment dated 20.11.2024 passed by the learned Single Judge of this Court in W.P.(C) No. 5724/2020, titled *Pankaj Kumar Prasad v. National Seeds Corporation Ltd.*, whereby the above Writ Petition filed by the respondent herein was allowed, setting aside the Impugned Order of recovery dated 13.11.2019 and the Communication dated 13.01.2020 issued by the appellant herein seeking recovery of an alleged excess amount of Rs. 9,28,143/- paid to the respondent.

8. Giving the brief background to the facts in which the present appeal arises, the respondent joined the appellant Corporation as a General Manager in the year 2008, when it was a 'C' category Public Sector Undertaking (hereinafter referred to as, 'PSU'). In the 235th Meeting of the Board of Directors of the appellant held on 14.12.2010, approval was granted for the upgradation of the officials from E-6 level to E-7 level, effective from 09.12.2010. This decision is stated to have been based on the misrepresentation of one Sh. D.R. Sarin. Subsequently, the resolution passed in the 235th Meeting was confirmed in the 236th Meeting of the Board of Directors of the appellant held on 04.03.2011.

9. Later, upon realising that the upgradation had been wrongly granted, the Vigilance Department initiated an enquiry in the year 2014 against Sh. D.R. Sarin.

10. In the 257th Meeting of the Board of Directors of the appellant held on 01.09.2014, the said issue was placed before the Board. The enquiry report is alleged to have found fraud and misrepresentation by Sh. D. R. Sarin, due to which five officials of the appellant at the level



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of General Manager, including the respondent, had been granted upgradation.

11. While there were some proceedings filed by Sh. D.R. Sarin challenging the above inquiry, the respondent applied to be relieved from the employment of the appellant in order to join another PSU. The respondent was, accordingly, relieved from his employment on 30.09.2016.

12. It was only thereafter, by way of a Resolution passed in the 285th Meeting of the Board of Directors of the appellant held on 28.09.2019, that the appellant decided to annul the alleged unauthorised upgradation granted *inter alia* to the respondent herein, and directed the recovery of the excess amount paid to the five General Managers, including the respondent herein. The same resulted in the issuance of the Impugned Order of recovery dated 13.11.2019 and the Communication dated 13.01.2020, calling upon the respondent to pay an amount of Rs. 9,28,143/- allegedly paid in excess due to the aforementioned decisions.

13. The said action was challenged by the respondent by way of the Writ Petition, which stands allowed by the learned Single Judge of this Court, *inter alia*, placing reliance on the Judgment of the Supreme Court in *State of Punjab v. Rafiq Masih*, (2015) 4 SCC 334.

14. The learned counsel for the appellant submits that much before the respondent was relieved from the service, and within a period of three years of the grant of the unauthorised upgradation to him, the appellant had realised its mistake which was due to the misrepresentation of Sh. D. R. Sarin. In the 257th Board Meeting, the



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Board resolved to conduct a full-fledged enquiry into the matter and also initiate disciplinary action against Sh. D. R. Sarin for the above-sated misrepresentation. He further submits that the enquiry resulted in the issuance of a chargesheet to Sh. D. R. Sarin on 11.05.2018, and the enquiry report dated 09.04.2019 concluded that the upgradation was illegal and that certain officials had gained undue financial benefits due to the said decision. It was in the 285th Board Meeting, as mentioned above, that it was resolved to annul the unauthorised upgradation granted to these five General Managers, including the respondent herein, and to recover the excess payment made to them. He contended that, as the initiation of the process of the recovery had started much before the respondent was relieved from the service, and in any case within a period of three years of the decision to grant the upgradation to the respondent, the principles laid down in *Rafiq Masih* (supra) would not apply to the case of the respondent.

15. We have considered the submissions made by the learned counsel for the appellant, however, we do not find any force in the same.

16. The fact remains that though the enquiry was initiated against Sh. D. R. Sarin, there was no inquiry initiated against the respondent herein, nor were there any allegations of any misrepresentation or fraud having been committed by the respondent in relation to the upgradation granted to him. Further, the decision to recover the excess amount from the respondent was taken only on 28.09.2019, that is, beyond a period of five years from the initial decision to grant upgradation to the respondent, and also after the respondent had



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already been relieved from the service by the appellant.

17. In our view, therefore, the learned Single Judge of this Court has rightly applied the principle laid down in *Rafiq Masih* (supra) to set aside the Order of Recovery dated 13.11.2019 and the Communication dated 13.01.2020 issued to the respondent.

18. We, therefore, do not find any merit in the present appeal. The same is, accordingly, dismissed. The pending application is also disposed of as infructuous.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 16, 2025

p/sm/DG

Click here to check corrigendum, if any