



2025:DHC:5928-DB



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

Date of decision: 22.07.2025

+ W.P.(C) 15922/2022

SH RAJ KUMARPetitioner

Through: Mr. Jawahar Raja, Ms. Meghna
De, Ms. L. Gangmei, Advs.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Siddharth Gupta, SC for
MCD.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 06.02.2019 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the, 'Tribunal') in O.A. No. 6/2013, titled ***Shri Raj Kumar v. The Commissioner (North), NDMC & Anr.***, whereby the learned Tribunal disposed of the O.A. filed by the petitioner herein in the following terms:

"11. Since the applicant has retired from service, we are of the view that the respondents cannot be permitted to levy interest. Therefore, we partly allow the OA setting aside that portion of the show cause



notice which proposed to levy 10% interest on the applicant. It is accordingly directed that the amount payable by him shall be worked out after duly deducting the same, the respondents shall release amount payable to him, within three months from the date of receipt of copy of this order.”

2. The brief facts giving rise to the present petition are that the petitioner, who had joined the services of the respondent as a Garden Chaudhary on daily wages on 06.11.1978, pursuant to an Industrial Award dated 10.07.2000, was regularized in service with effect from 02.07.1984. The said Award was challenged by the respondent before this Court, but the challenge was unsuccessful.

3. Subsequently, claiming that his juniors had been promoted to the post of Section Officer while he had been overlooked, the petitioner again approached the learned Labour Court, initiating an Industrial Dispute, being I.D. No. 31/2006. The same was decided in favour of the petitioner *vide* an Award dated 24.03.2009.

4. Pursuant to the said Award, the petitioner filed an application under Section 33C (1) of the Industrial Disputes Act, 1947, seeking execution/implementation of the said Award, and pursuant to the proceedings therein, recovered an amount of Rs. 11,62,975/- from the respondent.

5. The respondent challenged the Award dated 24.03.2009 by way of a writ petition before this Court, being W.P.(C) No. 11737/2009, wherein by an Order dated 02.12.2011, this Court modified the Award and held that the petitioner was entitled only to *ad-hoc* promotion to the post of Section Officer, as had been granted to similarly situated



Garden Chaudharies *vide* Office Order dated 29.09.2000.

6. The respondent then challenged the Order dated 02.12.2011 passed by the learned Single Judge by way of an appeal, being LPA No. 78/2012, and by its Judgment dated 11.05.2012, the Division Bench allowed the appeal and set aside the Award dated 24.03.2009.

7. Pursuant thereto, the respondent issued a show cause notice dated 31.10.2012, calling upon the petitioner to explain why the amount of Rs. 11,62,975/-, along with interest at the rate of 10% per annum, should not be recovered from him. The petitioner responded to the said notice; however, the respondent commenced recovery of the aforesaid amount from the salary of the petitioner.

8. Aggrieved thereby, the petitioner filed the above O.A. before the learned Tribunal.

9. The learned Tribunal, while upholding the right of the respondent to recover the amount of Rs. 11,62,975/-, keeping in view the fact that the petitioner had retired from service, restrained the respondent from recovering interest at the rate of 10% per annum.

10. Aggrieved by the order of the learned Tribunal, the petitioner has filed the present petition.

11. In the meantime, the Special Leave Petition, being SLP(C) CC No. 19699/2012, filed by the petitioner challenging the judgment of Division Bench, was also dismissed by the Supreme Court *vide* Order dated 24.10.2014 and, therefore, the judgment of the Division Bench attained finality.

12. The learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate that the petitioner belonged to a



‘Group-C’ service and had already retired. He places reliance on the Judgment of the Supreme Court in *State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.*, (2015) 4 SCC 334,, to submit that the petitioner is fully covered by the illustrations/circumstances given by the Supreme Court where recovery of overpayment to an employee cannot be made.

13. On the other hand, the learned counsel for the respondent submits that the amount was paid to the petitioner pursuant to the Award dated 24.03.2009, which was enforced by the petitioner by way of an application under Section 33C (1) of the Industrial Disputes Act, 1947. It is submitted that once the said Award was set aside, the petitioner lost entitlement to the amount, and the respondent was well within its rights to recover the same. In such circumstances, the judgment of the Supreme Court in *Rafiq Masih* (supra) would not apply.

14. He further submits that although the respondent initially proposed to recover the amount along with interest at the rate of 10% per annum, in compliance with the directions of the learned Tribunal, interest was ultimately recovered from the petitioner.

15. We have considered the submissions made by the learned counsels for the parties.

16. From the facts narrated above, it would be apparent that the amount of Rs. 11,62,975/- was recovered by the petitioner pursuant to the enforcement of the Award dated 24.03.2009. However, the said Award was subsequently set aside by the Division Bench of this Court in LPA No.78/2012 *vide* judgment dated 11.05.2012, which was



upheld by the Supreme Court upon dismissal of the SLP(C) CC No. 19699/2012 on 24.10.2014. The respondent, therefore, was entitled to seek restitution of the amount paid under the Industrial Award.

17. In such peculiar circumstances, the principles laid down by the Supreme Court in *Rafiq Masih* (supra), would not apply. This was not a case where the respondent had paid the excess amount voluntarily or due to a mistake. The payment was made under compulsion of law.

18. As far as the question of interest on the amount paid is concerned, apart from the fact that the respondent has not challenged the same, even otherwise, we find no infirmity in the direction passed by the learned Tribunal restraining the respondent from recovering interest from the petitioner. The petitioner was a Group 'C' employee and has retired. In such circumstances, recovering interest on the amount paid, though under duress, would still be inequitable and cannot be permitted.

19. As already noted hereinabove, the learned counsel for the respondent has submitted that no interest has, in fact, been recovered from the petitioner. Calculation of the amount recovered has been handed over to the learned counsel for the petitioner by the learned counsel for the respondent. Since this is a matter of accounting, we leave it open to the petitioner to make a representation to the respondent if he believes that any excess amount has been recovered. Such representation shall be duly considered by the respondent and in case any amount is found to have been recovered in excess of the principal amount, the same shall be returned by the respondent to the petitioner within a period of six weeks of the receipt of the



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representation.

20. In the above terms, the present Writ Petition is disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 22, 2025

Bsn/Pallavi/Kj