



2025:DHC:7122-DB



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

Date of decision: 21.08.2025

+ W.P.(C) 7856/2025 & CM APPL. 34672/2025
CHIEF EXECUTING OFFICER PRASAR BHARATI & ORS.
.....Petitioners

Through: Ms.Vertika Sharma, Adv.

versus

ATUL TYAGIRespondent

Through: Mr.Praveen Swarup, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioners, challenging the Order dated 21.11.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in O.A. No. 2401/2018, titled ***Atul Tyagi v. Ministry of Information & Broadcasting & Ors.***, whereby the learned Tribunal partially allowed the said O.A. filed by the respondent herein with the following directions:

"18. In view of the same, we are of the considered view that insofar as the impugned recovery is concerned, the impugned order is liable to be quashed and set aside to that extent only. The OA is party allowed to that extent. The recovery so made shall not be given effect to. The amount withheld shall be released in favor of the applicant.



Accordingly, the pay of the applicant shall be fixed ignoring the recovery and as such appropriate order be passed by the respondents. Consequential relief shall also follow. This exercise shall be completed by the respondents within two month from the date of receipt of certified copy of this order.”

2. Pursuant to our Order dated 29.05.2025, the petitioners have filed an affidavit which, *inter alia* explains that the order giving effect to the revised pay scale under the 6th Central Pay Commission (CPC) was passed only on 03/04.10.2012, though with retrospective effect from August, 2006. On realising a mistake in the fixation of pay, the DG, AIR issued necessary instructions *vide* letter dated 05.01.2016 to all its Regional Offices to revise the pay of Head Clerks/Assistants/Stenographers Grade-II working in All India Radio and Doordarshan. In compliance therewith, the pay of the respondent was revised with effect from 01.07.2006. In addition thereto, the date of his 2nd Modified Assured Career Progression (MACP) was also revised to 20.07.2009 instead of 17.07.2006, *vide* Order dated 14.11.2017. The 3rd MACP benefit was also revised for the respondent from 08.05.2015 to 17.01.2016, *vide* Order dated 17.05.2018.

3. The learned counsel for the petitioners submits that therefore, the present case would not fall within the circumstances that were mentioned by the Supreme Court in *State of Punjab and others v. Rafiq Masih*, (2015) 4 SCC 334, where the recovery of an excess amount paid by the employer without any default of the employee, cannot be recovered. She submits that in the present case, the excess amount had been paid only in the year 2012 and therefore,



the petitioners were entitled to recover the said amount from the respondent.

4. We have considered the submissions made by the learned counsel for the petitioners.

5. It is not denied that the respondent was working as a Class-C employee. In *Rafiq Masih* (supra), the Supreme Court has given the circumstances where the recovery should not be allowed to be made from the employee of the excess amount paid to the said employee without any fault of the employee. The relevant finding in this regard is reproduced as under:

“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.

(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.



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(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. In our view, the case of the respondent would fall within the circumstance no.(i) of the said judgment. We also note that the recovery order was issued on 17.05.2018, just before the respondent was about to superannuate on 30.04.2019. Therefore, this case would also fall within circumstance (ii).

7. We, therefore, find no merit in the present petition. The same is, accordingly, dismissed. The pending application is also disposed of as being infructuous.

NAVIN CHAWLA, J

MADHU JAIN, J

AUGUST 21, 2025/Arya/DG