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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6925/2024 & CM APPLs. 28787/2024, 6055/2025

SANJEET SINGH

.....Petitioner

Through: Mr. Abhik Chimni, Mr. Gurupal
Singh, Mr. Pranjal Abral,
Advocates.

versus

UNIVERSITY OF DELHI & ANR.

.....Respondents

Through: Mr. Mohinder J.S. Rupal, Mr.
Hardik Rupal, Ms. Aishwarya
Malhotra, Advocates for R-1.
Mr. B.S. Rana, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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26.03.2025

1. By way of this writ petition under Article 226 of the Constitution, the petitioner, who is an Associate Professor in Department of Economics at the respondent No. 2 – Sri Aurobindo College (Evening) [“College”], assails an order dated 16.01.2020, by which respondent No. 1 – University of Delhi [“the University”] has re-fixed his pay, and an order dated 03.02.2020, by which the College has proposed to recover an amount of Rs.6,79,942/- from him.

2. The petitioner was appointed as a Lecturer in the College on 25.08.1986. His pay was fixed at Rs.14,940 in the scale of Rs.12,000-18,300 by an order of the University dated 02.12.2003. The said communication is predicated on completion of five years of service in the



Readers Grade with effect from 27.07.2003. It is specifically stated to be subject to correction/modification if any, noted later.

3. By the impugned communication dated 16.01.2020, the University stated that this fixation was incorrect and the petitioner's pay should have been fixed at Rs.14,100 with effect from 27.07.2003, with consequent rectification in the pay after the Sixth Central Pay Commission.

4. Following this order, the College issued the second impugned order dated 03.02.2020, contending that the amount of Rs.6,79,942/- had been calculated as recoverable from the petitioner.

5. The petitioner submitted a representation dated 24.09.2020 to the College, seeking waiver of recovery, citing the judgment of the Supreme Court in *State of Punjab and Ors. vs. Rafiq Masih (White Washer) and Ors.* [dated 18.12.2014, (2015) 4 SCC 334] and Office Memorandums of the Department of Expenditure and the Department of Personnel and Training dated 06.02.2014 and 02.03.2016, respectively. He made a further representation on 17.04.2023, but his representations have not elicited a response, leading to the present writ petition.

6. While the writ petition remains pending, the petitioner is on the verge of superannuation on 31.03.2025, and apprehends that the fixation of his pension will also be impeded by the potential recovery.

7. At the outset, Mr. Abhik Chimni, learned counsel for the petitioner, submits that another case relating to similar re-fixation of pay has been decided by this Court in *Smt. Draupati Devi vs. Union of India & Ors.* [W.P.(C) 8675/2022] decided on 25.11.2024. While the question of correctness of the re-fixation was not gone into, the Court held that the recovery of the excess amount paid, if any, was impermissible. Mr.



Chimni submits that the petitioner would be satisfied with a similar order in this case.

8. Having heard Mr. Chimni, Mr. Mohinder J.S. Rupal, learned counsel for the University, and Mr. B.S. Rana, learned counsel for the College, I am of the view that the submission of Mr. Chimni to this extent is merited. There is no suggestion on record, that the order fixing the petitioner's pay in the year 2003 was based on any misrepresentation on his part. Even assuming that the order was mistaken, the mistake was sought to be corrected only sixteen years later, by the impugned order dated 16.01.2020. The recovery of the excess amount paid to the petitioner in the interregnum, thus, covers a period of sixteen years, whereas the Supreme Court in *Rafiq Masih [Supra.]*, has categorically held that no such recovery should be permitted, if the incorrect fixation was made more than five years prior. The position has been reiterated in the judgment in *Thomas Daniel vs. State of Kerala & Ors* [dated 02.05.2022, 2022 SCC OnLine SC 536].

9. As submitted by Mr. Chimni, the judgment in *Draupati Devi [Supra.]* also supports the petitioner's case. The said judgment also concerned recovery consequent upon an allegedly mistaken order stepping up the pay of the petitioner's late husband from Rs.14,100 to 14,940, which is the very issue in the present case also. The employer – College sought to recover a sum of Rs.9 lakhs as a consequence, but the Court found that the proposed recovery was contrary to the judgment in *Rafiq Masih [Supra.]*. The coordinate Bench, in *Draupati Devi*, also relied upon the Division Bench decision of this Court in *MMTC Ltd. vs. P.K. Das & Ors.* [dated 15.10.2024, 2024 SCC OnLine Del 7314], and



Mahanagar Telephone Nigam Limited (M.T.N.L.) through its Deputy Manager (P and A) v. Satya Narain Shahni [dated 08.08.2023, 2023 SCC OnLine Del 4819], which followed the judgment in *Rafiq Masih [Supra.]*

10. Having regard to the above, the writ petition is disposed of by setting aside the recovery order dated 03.02.2020 and directing that the respondents will not recover any amount paid to the petitioner as consequence of the University's communication dated 02.12.2003. It is made clear that subject to the aforesaid, the challenge to the re-fixation order dated 16.01.2020 has not been pressed.

11. Mr. Rupal states that the University has already fixed the petitioner's pension, taking into account the order dated 16.01.2020. The College will release the pension to the petitioner in accordance with the said fixation.

12. The writ petition stands disposed of.

PRATEEK JALAN, J

MARCH 26, 2025

'Bhupi'/SD/