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

\+ W.P.(C) 6193/2025, CM APPL. 28252/2025, CM APPL. 28253/2025, CM APPL. 28254/2025 & CM APPL. 28255/2025

DR. SANJAY KANT PRASAD .....Petitioner

Through: Mr. Archit Verma, Advocate.

versus

THE DIRECTOR, ACADEMIC COORDINATION DIVISION, INDIRA GANDHI NATIONAL OPEN UNIVERSITY & ORS. .....Respondents

Through: Mr. Aly Mirza, Advocate.

CORAM:
HON’BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% 09.05.2025

1. Issue notice. Mr. Aly Mirza, learned counsel, accepts notice on behalf of the respondents.

2. The petitioner is an employee of Indira Gandhi National Open University [“IGNOU”] in the post of Additional Director, National Centre for Disability Studies. He assails two orders of IGNOU: an order dated 01.11.2024, by which his pay was re-fixed, and an order dated 28.11.2024, by which recovery was sought to be effected in the sum of Rs.32,73,312/-.

3. It is clear from the order dated 28.11.2024 that the revision of pay fixation and recovery pertains to the entire period during which he has been in the employment of IGNOU, which commenced on 14.05.2008.

4. The petitioner has represented against the recovery on 17.12.2024.

The petitioner's representation details the events leading to his pay fixation in the year 2008 and further revisions. He has also raised a grievance with regard to the lack of hearing afforded to him and the delay in the purported rectification of his pay.

5. However, I am informed, that even without addressing the said representation, recovery in terms of the order dated 28.11.2024 has commenced from the petitioner's salary from the month of February 2025 onwards.

6. The points raised by the petitioner must be addressed by the employer. Further judgments of the Supreme Court in *State of Punjab and Ors. v. Rafiq Masih (White Washer) and Ors.* [(2015) 4 SCC 334, decided on 18.12.2014], *Thomas Daniel v. State of Kerala & Ors*. [2022 SCC OnLine SC 536, decided on 02.05.2022], and *Jogeshwar Sahoo and Ors. v. The District Judge, Cuttack and Ors.* [SLP (C) No. 5918/2024, decided on 04.04.2025] also clearly delineate the limited circumstances under which an employer may recover from an employee excess emoluments paid to him. In the present case, there does not appear, on the face of the orders dated 01.11.2024 and 28.11.2024, to be any allegation of fraud or misrepresentation on the part of the petitioner.

7. Having regard to these circumstances, the writ petition is disposed of, with the direction that the respondents will consider the petitioner's representation dated 17.12.2024, alongwith the grounds and documents annexed to the writ petition. The disposal of the representation should take place within a period of six weeks from today, after a personal hearing is granted to the petitioner.

8. Having regard to the fact that the purported recovery relates back

to 2008, it is directed that no further recovery will be made from the petitioner's emoluments until the representation is decided, and for a further period of four weeks thereafter.

9. The petitioner will, however, continue to be paid at the rate at which he is paid in accordance with the salary he has drawn in April 2025, subject to any increments that may accrue to him in the normal course. If the petitioner ultimately succeeds in his representation, the arrears payable to him will also be paid within four weeks thereafter.

10. All rights and remedies of the parties are reserved.

11. All pending applications are disposed of.

PRATEEK JALAN, J

MAY 9, 2025
SS/JM/