



2025:DHC:11496-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 19033/2025, CM APPL. 79264/2025 & CM APPL. 79265/2025
GULVIR SINGHPetitioner
Through: Ms. Hemlata Rawat, Mr. Abhay Singh, Mr. Saurabh, Advocates

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Shashank Bajpai, CGSC with Mr. Sambhav Sharma, GP and Ms. Aashna Mehra, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGEMENT (ORAL)

% **16.12.2025**

C. HARI SHANKAR, J.

1. With consent of the parties, this writ petition is disposed of without calling for any response.
2. The petitioner is aggrieved by order dated 10 September 2025 whereby recovery of overpayment of salary allegedly since 01.01.2006 i.e., for over 19 years has been effected.
3. The order has been passed without any show cause notice to the petitioner and, therefore, violates the judgment of the Supreme Court in *Bhagwan Shukla v. Union of India*¹.

¹ (1994) 6 SCC 154



4. Besides the recovery is in the teeth of clauses (i) and (iii) of para 18 of the judgment of the Supreme Court *in State of Punjab v. Rafiq Masih*², which prohibit recovery more than five years after the alleged excess payment and prohibits recovery from Group C and Group D employees. For ready reference, para 18 of *Rafiq Masih* may be reproduced, thus:

“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.
- (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.

5. Mr. Bajpai, learned CGSC very fairly acknowledges this



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position.

6. Accordingly, the impugned order dated 10 September 2025 is quashed and set aside. If any amounts have been recovered from the petitioner, they shall be returned to the petitioner within a period of four weeks from today, failing which the amount shall carry interest at the rate of 12% per annum till date of actual payment.

7. The writ petition is allowed to the aforesaid extent.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

DECEMBER 16, 2025/rjd