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

\+ W.P.(C) 1219/2026 & CM APPL. 5952/2026

DR MUKESH KUMAR SHARMA AND ORS. .....Petitioners

Through: Mr. A.K. Trivedi, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS. .....Respondents

Through: Mrs. Avnish Ahlawat, SC for GNCTD with Mr. N.K. Singh, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **29.01.2026**

1. The Petitioners were engaged with Ch. Brahm Prakash Ayurved Charak Sansthan in different capacities, some on regular basis and others on contractual basis. They assail office order dated 31st December, 2025, whereby the Sansthan has decided to commence recoveries from them. The stated basis for the proposed recoveries is a "special audit" conducted in 2016, which, according to the Respondents, recorded objections pertaining to alleged excess and irregular payments.

2. The impugned order records that the matter was deliberated in a meeting held under the chairmanship of the Director Principal and, pursuant thereto, it was decided to initiate recovery proceedings. The order also refers to the overall amount proposed to be recovered and the mode of monthly

deductions. However, it does not identify, petitioner-wise, the amount alleged to be overpaid, the head(s) of payment, the period of such payment, or the particular audit objection on the basis of which liability is sought to be fixed.

3. Counsel for the Petitioners submits that the impugned order has been issued without any prior show cause notice, thereby denying the Petitioners an opportunity to demonstrate that no excess payment was made, or that any payment made was in accordance with the applicable rules and approvals. It is further urged that recoveries founded on a decade-old audit objection, without disclosure of particulars and without a pre-decisional hearing, are *ex facie* arbitrary. Reliance is also placed upon the judgment of the Supreme Court in ***State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.***[1] to contend that recoveries of this nature are, in any event, circumscribed by settled principles.

4. The Court has considered the submissions and perused the impugned order. At this stage, it is neither necessary nor appropriate to return findings on the merits of the audit objections, the correctness of the payments, or the eventual permissibility of recoveries in the facts of each case. The infirmity which vitiates the impugned order lies at a prior and more fundamental level.

5. Recovery of salary or emoluments already paid, especially where it is sought to be justified on the basis of audit objections, entails civil consequences. Any decision to fasten pecuniary liability must therefore conform to elementary procedural fairness. This necessarily includes: (i) disclosure of the specific basis of the proposed recovery; (ii) identification

of the period and the head of payment; (iii) petitioner-wise quantification; and (iv) an opportunity to respond before any deductions are effected. A general order directing deductions, without these minimum particulars and without a prior notice, does not satisfy the standard expected of a public authority and is therefore arbitrary.

6. The present case is further aggravated by the Respondents' own showing that the proposed recoveries emanate from a special audit of 2016. If the Respondents propose to act on an audit observation of that vintage, *a fortiori* they must proceed by a structured, transparent process, enabling the concerned employee to meaningfully meet the case. A recovery cannot be converted into an administrative *fait accompli* merely because an audit objection exists on file or because the matter was discussed in an internal meeting.

7. The impugned office order, in its present form, is therefore unsustainable. It is set aside *qua* the Petitioners, with liberty to the Respondents to proceed afresh, strictly in accordance with law.

8. Accordingly, the writ petition is disposed of with the following directions:

(i) The Respondents shall, within a period of four weeks from today, issue individual show cause notices to each of the Petitioners.

(ii) Each show cause notice shall clearly set out the factual and legal basis for the proposed recovery, including: the relevant audit objection(s), the period for which excess payment is alleged, the head(s) under which such payment is said to have been made, the computation/working, and the quantified amount proposed to be recovered from the concerned Petitioner.

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[1] (2015) 4 SCC 334

(iii) The Petitioners shall be at liberty to submit their replies within the time stipulated in the show cause notice. The Respondents shall consider the replies and shall pass a reasoned and speaking order, petitioner-wise, and communicate the same, having regard to the principles laid down in ***Rafiq Masih***.

(iv) Any recovery already effected pursuant to the office order dated 31st December, 2025 shall be refunded to the concerned Petitioners within a period of four weeks from today. This refund shall be without prejudice to the Respondents' liberty to proceed afresh in accordance with law after compliance with the directions contained herein.

9. It is clarified that the Court has not examined the merits of the audit objections, the legality of the payments, or the ultimate permissibility of any recovery. This includes the applicability of the principles in *Rafiq Masih*. All such issues shall remain open to be urged at the appropriate stage, depending upon the nature of the proposed recovery, the category of employees involved, and the reasons recorded by the competent authority.

10. The petition, along with pending applications, stands disposed of.

SANJEEV NARULA, J

JANUARY 29, 2026/ab