$~36

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

\+ W.P.(C) 6583/2023 & CM APPLs. 25894/2023, 22179/2024

NITA VERMA .....Petitioner

Through: Mr. Ajay Verma, Senior Advocate with Mr. Ishaan Verma and Ms. Diviani K. Verma, Advocates.

versus

UNIVERSITY OF DELHI & ANR. .....Respondents

Through: Mr. Mohinder J.S Rupal, Mr. Hardik Rupal, Ms. Aishwarya Malhotra and Ms. Tripta Sharma, Advocates for University of Delhi.
Mr. Navneet Anand, Adv. for R- 2 & 4.

**CORAM:**
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **29.04.2026**

1. The Petitioner joined Respondent No. 2 i.e., Shaheed Bhagat Singh College ["*SBSC*"] as an Ad-hoc Lecturer and was confirmed as a permanent Lecturer in the year 1988. She is presently serving as an Associate Professor. The present petition arises from a demand raised by SBSC *vide* letter dated 22nd September, 2022, whereby an amount of INR 9,31,854/- is sought to be recovered from the Petitioner on account of alleged excess payment made during the period 27th July, 2003 to 31st July, 2022. The said demand is premised on a communication dated 26th May, 2022 issued by Respondent No. 1 i.e., University of Delhi ["*DU*"] regarding pay fixation pursuant to the recommendations of the 7th Central Pay Commission. The demand letter dated 22nd September, 2022 reads as follows:

*"NO. SBSC/671* *Date: 22.09.2022*

***Ms. Nita Verma***
***Associate Professor***
*Department of History*
*Shaheed Bhagat Singh College*
*New Delhi-110017*

*Madam,*

*I am writing to inform you that the College has received a letter No.CS-SDC/111/VIICPC/SBSC(D)/ 2022/247 dated 26th May, 2022 from University of Delhi, South Campus (Copy Attached as annexure-I) regarding pay fixation as per the recommendations of the 7th Pay Commission.*

*Accordingly, the College had prepared the statement of recovery amounting to Rs.9,31,854/- for a period from 27.07.2003 to 31.07.2022* ***(copy of statement of recovery attached and annexure-II)***

*You are, therefore, requested to deposit am amount of Rs.9,31,854/- in the accounts section of the College at the earliest."*

2. According to the impugned demand, the summary of recovery of the impugned demand of INR 9,31,854/- is as follows:

| S.No. | Period | | Payable | Paid | Diff |
|---|---|---|---|---|---|
| 1 | 27/07/2003 | 31/12/2005 | 891116 | 942873 | -51757 |
| 2 | 01.01.2006 | 31.12.2015 | 12268182 | 12568182 | -298062 |
| 3 | 01.01.2016 | 31.07.2022 | 19370225 | 19370225 | -582035 |
| Total | | | 32529523 | 33461377 | -931854 |

3. The Petitioner impugns the aforesaid demand, *inter alia*, on the ground that the alleged excess payment, if any, is attributable solely to the Respondents and that recovery after an inordinate delay of nearly two decades is impermissible in law.

4. Mr. Ajay Verma, Senior Counsel appearing for the Petitioner, submits that the impugned recovery is *ex facie* illegal and contrary to the law laid

down by the Supreme Court in ***State of Punjab v. Rafiq Masih***,[1] as well as by this Court in ***Jagdish Prasad v. University of Delhi***,[2] ***K.K. Verma v. University of Delhi***,[3] ***Renu Gupta v. University of Delhi***,[4] and ***UOI v. J.S. Sharma***.[5] It is submitted that the Petitioner had no role in the alleged miscalculation and that the recovery, sought to be effected after nearly twenty years, would cause grave hardship, particularly as the Petitioner is on the verge of retirement.

5. Mr. Verma further submits that, pursuant to the impugned demand, a sum of INR 1,04,100/- has already been deducted from the Petitioner's salary.

6. On the other hand, Mr. Mohinder J.S. Rupal, counsel for DU, submits that SBSC, being a constituent college of DU, is bound by the directions issued by it. It is contended that upon re-fixation of the Petitioner's pay in terms of the 7th CPC, it was found that excess payment had been made, and therefore, SBSC was justified in initiating recovery in accordance with the directions received. It is further submitted that the Petitioner has not challenged the re-fixation of pay or the consequential determination of pensionary benefits, and therefore, the present challenge to recovery is misconceived.

7. The Court has considered the submissions advanced by counsel for the parties. By order dated 29th May, 2023, had stayed the operation of the impugned demand. It is also pointed out that the matter has been taken up administratively by SBSC with the concerned authorities for waiver of

---

[1] (2014) 8 SCC 883
[2] 2015 SCC OnLine Del 8844
[3] 2015 (150) DRJ 307
[4] 225 (2015) DLT 578

recovery. The said communication, reads as follows:

*"The Principal,*
*Shaheed Bhagat Singh College,*
*(University of Delhi)*
*Sheikh Sarai, Phase-II*
*New Delhi-110017*

*Sub: Waiver of recovery and releasing the amount of recovery in compliance of order of Hon'ble High Court of Delhi in r/o Ms. Nita Verma, Ex-Associate Professor, Shaheed Bhagat Singh College (SBSC), University of Delhi -reg*

***Ref.: Your letter No. SBSC/777 dated 09.09.2024***

*With reference to your letter quoted under reference on the subject matter and on scrutiny of the records submitted by the College, I am directed to inform the following:*

1. *As per the college letter dated 09.09.2024 the pay of Ms. Nita Verma was re-fixed/rectified the wrong fixation of the pay w.e.f. 27.03.2003 as per the UDSC letter dated 26.05.2022 which resulted the payment of excess amount to the tune of ₹ 9,31,854/- and the same was intimated to Ms. Nita Verma to deposit the said amount in the college account vide letter dated 22.09.2022.*
2. *Ms. Nita Verma has filed a writ petition before the Hon'ble High Court of Delhi praying to stay the impugned order issued by the College dated 22/23-9-2022 i.e. for recovery of excess amount of ₹ 9,31,854/- vide W.P. No. 6583/2023.*
3. *The Hon'ble High Court of Delhi vide order dated 29.5.2023 stayed the impugned order dated 23.9.2022 and directed that no recoveries shall be made by Respondent No.2 (Principal, SBSC).*
4. *Further, Ms. Nita Verma filed a contempt petition before the Hon'ble High Court of Delhi vide Cont. Case (C) No. 1061/2024 and the Hon'ble High Court of Delhi vide order dated 20.8.2024 noted that "this court is of the prima facie that Respondent No.1 is in contempt of the order dated 29.5.2023. Accordingly, notice be issued to Respondent No.1 (the Principal, SBSC) herein to show cause why the contempt not mitigated against him".*
5. *Considering the seriousness of legal issues leading to contempt petition, the Principal, SBSC is requested to comply the Hon'ble High Court of Delhi order dated 29.05.2023 and compliance report may be submitted to the Hon'ble Court to avoid any further legal complications.*

---

[5] 203 (2013) DLT 514 (DB)

> 6. *Since, the college has already been taken up the matter with the Secretary, UGC/MoE vide letter dated 09.08.2024 for waiver of recovery, the college may again pursue the matter with UGC/MoE by explaining the legal issues of the contempt proceedings for ratification/ex-post facto approval for waiver of recoveries.*
>
> *Yours faithfully,*
> *Sd/-*
> *Joint Registrar (Finance)"*

8. Be that as it may, without entering into the correctness of the pay fixation, the limited question that arises for consideration is whether the Respondents are entitled to effect recovery of the alleged excess payment after a substantial lapse of time, particularly when the same is not attributable to any fault or misrepresentation on the part of the Petitioner.

9. It is not in dispute that the impugned recovery, initiated in the year 2022, pertains to the period commencing from 27th July, 2003. The legal position governing such recoveries is no longer *res integra*. The Supreme Court in ***Rafiq Masih***, and this Court in a catena of decisions, have consistently held that recovery of excess payment, made due to an error on the part of the employer and without any fault of the employee, is impermissible, particularly where such recovery is sought to be effected after a prolonged period or from employees nearing retirement.

10. In the present case, the Respondents do not allege any fraud, misrepresentation, or suppression on the part of the Petitioner. The salary was determined and disbursed by the Respondents themselves. The Petitioner has rendered service for nearly four decades and is now at the fag end of her career. The Court must also take note of the fact that the Petitioner is a single lady, who has been managing solely on the basis of her salary and is now dependent on her pension. It has been explained that she

has, with considerable difficulty, purchased a flat for her residence and is servicing monthly instalments, in addition to bearing medical expenses on account of recent illness. In such circumstances, the recovery sought to be effected would operate harshly and inequitably, and would cause undue hardship for no fault attributable to the Petitioner.

11. It is also pertinent to note that the Petitioner had, upon receipt of the initial demand, submitted a detailed reply raising legal objections to the proposed recovery. The material on record indicates that the said reply was not adverted to in the subsequent communications, which proceeded without addressing the Petitioner's contentions. This lends credence to the Petitioner's grievance that her representations were not duly considered, reflecting a *prima facie* lack of application of mind.

12. In view of the aforesaid, and having regard to the settled legal position, this Court is of the opinion that the impugned recovery cannot be sustained.

13. Accordingly, the impugned communications dated 26th May, 2022, 22nd September, 2022, 15th November, 2022, 27th March, 2023, 20th April, 2023, and the Office Order dated 28th July, 2022 are hereby quashed.

14. The amount already recovered from the Petitioner shall be refunded within a period of eight weeks from today.

15. It is clarified that this order shall not preclude the Respondents from pursuing any administrative remedies, if permissible in law, including seeking appropriate approvals from competent authorities. However, no recovery shall be effected from the Petitioner.

16. The petition is, accordingly, allowed and disposed of in the above terms, along with pending applications.

**SANJEEV NARULA, J**

**APRIL 29, 2026**/as