



2026:DHC:2065



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

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Reserved on: 07th January, 2026

Pronounced on: 12th March, 2026

RFA 1158/2025 & CM APPL. 80384/2025

SH. P.K. CHAWLA (Aged about 79 years)

S/o Sh. B.L. Chawla,

R/o B-119, Shivalik, New Delhi

Presently at: R/o J.P. Aman, Flat No. 1803,

Sector-141, Tower No. 12, Noida, U.P.

.....Appellant

Through: Mr. M.D. Jangra, Advocate.

versus

1. UNION OF INDIA

(substituted as P/f vide Order dated 17.04.2018

in place of Organizing Committee

Commonwealth Games 2010, Delhi)

Through the Secretaries,

Department of Sports,

Ministry of Youth Affairs & Sports,

Shastri Bhawan, New Delhi.

2. GP. CAPT. KUK REDDY

(Impleaded as D/f vide Order dated 07.04.2014)

Flat No. C 22, S.S. Apartment,

Sector-9, Dwarka, New Delhi.

.....Respondents

Through: Mr. Udit Dedhiya, SPC with
Mr. Shivam Sharma, GP, Ms. Apurva
Sachdev and Mr. Preyansh Gupta,
Advocates for UOI.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA



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J U D G M E N T

NEENA BANSAL KRISHNA, J.

CM APPL. 80385/2025

1. The Appellant has filed an application under Section 5 of the Limitation Act r/w Section 151 Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) seeking Condonation of Delay of 28 days in filing the Appeal against the Judgment dated 30.07.2025.

2. It is stated that the Appellant a senior citizen applied for certified copy of the entire Trial court record and the impugned Judgment, on 22.09.2025 which were supplied on 18.10.2025. Thereafter, he approached the Counsel on 25.10.2025 and the Appeal was prepared after examining the voluminous record and filed in the second week of November, 2025. It is submitted that the time consumed in obtaining certified copied deserves exclusion and the delay, if any, is neither intentional nor deliberate, but occurred due to circumstances beyond the Appellant's control.

3. For the reasons stated in the Application, the delay of 28 days in filing the Appeal is condoned. **Application is accordingly, disposed of.**

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4. The instant Appeal is filed by the Appellant herein under Section 96 of the CPC, r/w Order XLI Rule 1 of the CPC, against the impugned Judgement and Decree dated 30.07.2025, whereby the Ld. District Judge, New Delhi has decreed the Civil Suit for the recovery of Rs. 4,16,500/- along with pendente-lite and future interest @ 3% p.a., against Defendant no. 1/Appellant.

Factual background:

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5. The Plaintiff/Respondent filed Suit for recovery of Rs. 4,16,500/- along with pendent-lite interest @18%, as arrears for Transport Allowance in the Commonwealth Games 2010. This is a recovery dispute arising out of payment of Organising Committee. Originally the Suit was filed by the Organising Committee, Commonwealth Games 2010, Delhi and later, after the Committee ceased to function, the Union of India was substituted as the Plaintiff.

6. The facts in brief, as stated in the Plaint, are that Sh. P.K. Chawla / Defendant No.1 was appointed Deputy Director (Accounts) on 02.05.2007 and was subsequently promoted from time to time and was finally promoted as Deputy Director General (Internal Audits), *vide* Order dated 31.08.2010 with retrospective effect from 01.04.2009.

7. After this promotion, he submitted a Note dated 09.09.2010 claiming Transport Allowance retrospectively, from 01.04.2009 @Rs. 26,000/- per month. The file was processed by Group Capt. K.U.K. Reddy, who approved and recommended payment, pursuant to which a lump sum amount of Rs. 4,16,500/- was paid to Defendant No.1, towards Transport Allowance. This payment came to the notice of Special Director General (Finance & Accounts) Mr. G.C. Chaturvedi and he proposed recovery of said amount, from Defendant no.1.

8. It is further stated that after completion of Commonwealth Games, the High-Level Committee chaired by Mr. V.K. Shungalu, was set up which in its 5th Report, made adverse observations on reimbursement of Transport Allowance made to Defendant no.1. Thereafter, *vide* Letters dated



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29.03.2011 and 13.04.2011, Defendant no.1 was requested to refund the amount of Rs. 4,16,500/-.

9. Defendant no.1, instead of refunding the amount, made a representation dated 22.04.2011 drawing analogy with other officials of the UOI, who were entitled to Transport Allowance as per their respective terms of Appointment, which was duly replied by the CEO, *vide* Letter dated 09.05.2011. Thereafter, a *Show Cause Notice* dated 25.05.2011 was issued to Defendant no.1 to refund the said amount. However, no affirmative Reply was given by him. Thereafter, a Legal Notice dated 13.06.2011, was served upon Defendant no.1. Legal Notice was also issued to Group Capt. K.U.K. Reddy, ADG (Finance & Accounts) / (Defendant No.2), the officer who processed and approved the payment, which was duly replied by him on 09.03.2012.

10. The plaintiff also requested the Indian Air Force (*parent Department of Defendant no.2*) to recover the amount from him, but the Air Force expressed its inability to recover the amount from Defendant no.2 and suggested recovery from the beneficiary, i.e., Defendant no.1.

11. *The Plaintiff therefore, alleging that the payment was an unauthorized excess payment, filed the Suit seeking recovery of Rs. 4,16,500 along with pendente lite interest and future interest @3% p.a.*

12. The Appellant/Defendant No.1 in his **Written Statement** took the Preliminary Objections that the Suit was not filed by duly authorized person. Shri Ram Mohan, Additional Director General (Legal), had not been authorized representative of the Plaintiff. Moreover, he is not a person of



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clean antecedents and is facing a criminal trial, under the Prevention of Corruption Act.

13. It was stated that the Suit was allegedly based on Fifth Report of High Power Committee, to protect the alleged corrupt Officers and to distract the Committee appointed by the Government, to check the irregularities committed during Commonwealth Games, 2010. The Plaintiffs have not come with clean hands, but the Suit has been filed maliciously to harass and malign the reputation of the respected citizens of India and is an abuse of process of law. The Suit *did not disclose any cause of action* and was liable to be dismissed.

14. On merits, the Defendant/Appellant explained that the amount as Transport Allowance, was disbursed by the Plaintiff in parity with other staff, in accordance with Financial and Administrative Guidelines of the Organizing Committee, Commonwealth Games, 2010, Delhi, as applicable to disbursement of expenses including conveyance/transport allowance.

15. The Defendant explained that as per the Promotion Order dated 31st August 2010, he was entitled to Transport Expenses as per Service conditions. He had written a Note dated 09.09.2010 for reimbursement of Transport Charges @ Rs.26,000/- per month w.e.f. 01.04.2009, to the Competent Authority i.e. Chairman and not to A.D.G. (F&A), as claimed by the Plaintiff. It was denied that the Transport Allowance was wrongly approved by Group Captain K.U.K. Reddy, the then Additional Director General (Finance and Accounts).

16. The Defendant/Appellant further submitted that Shri N.P Singh Jt. Director (General Admin & Work Force) approved the payment, in



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accordance with the rules and sent the file for approval to A.D.G. (F&A), for release of payment.

17. The Appellant further asserted that the Transport allowances for the month of September, October and November 2010 @ Rs.30,000/- approx. were also awarded to the Appellant. Had he not been entitled for reimbursement, the Transport expenses for the subsequent months, would not have been allowed. The observations of Sh. G.C. Chaturvedi, are erroneous and not based on facts and Rules governing the disbursement of Transport Allowance and are not binding on the Appellant.

18. It was further submitted that the Suit was instituted to protect corrupt officers who were facing charges under Prevention of Corruption Act. The Plaintiff claiming reimbursement of the conveyance allowance by the Appellant Shri P.K. Chawla with retrospective effect, compounded the aberration. Both FA (Office Administration) and Finance & Accounts, did not examine the proposal properly. The amount was disbursed to the Respondent No. 1 / Defendant as per his entitlement. Moreover, the processing of any Bill exchanged various hands for approvals and then received in Treasury / Cashier and as such, no one person is involved nor it is a case of embezzlement. The Suit has been instituted to dissuade the Committee set up to check the irregularities committed by the corrupt officers who are facing charges of corruption.

19. It is further submitted that *Mrs. Shovana Narayan* (Joint Director General, (C&C) *vide* her Note JT.DG(C&C)IA001/2008-2009, dated 12.03.2009 had strongly recommended the promotion of the Appellant / Defendant, on the basis of his performance and work. The Appellant /



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Defendant was in audit and whistle blower in many discrepancies wherein crores of rupees were saved.

20. In the extract of 5th Report of High-Level Committee headed by V.K. Shunglu, had observed that apparently the disbursement had been made to the Defendant “*without the approval of GDG(F&A)*”. It is claimed that the Report is vague and incomplete. The High-Level Committee Report did not attribute any misconduct or misuse of power which would debar the Appellant of the right vested in the entitlement of monthly expenditure.

21. The Appellant / Defendant claimed that the money has been duly disbursed as per his entitlement in accordance with Rules and Regulation upon his promotion w.e.f. 01.04.2009. It was claimed that there was no occasion for the Plaintiff to ask the Defendant, to refund the amount. The Defendant had issued Letters dated 09.11.2010, 27.12.2010, 18.06.2011 and 21.07.2011 to the Plaintiff, but it chose to remain silent and did not respond for the reasons best known to it. Hence, it was submitted that the Suit was without basis and was liable to be dismissed.

22. The **Defendant No.2 in its Written Statement**, also took a similar stand of claiming that since the promotion of Defendant No.1 was with retrospective effect, he was eligible to claim Transport Allowance. Though, the Defendant No.1 had made a claim for reimbursement @ Rs.26,000/- per month, he had restricted it to Rs.24,500/-. The SDG (F&A) had put a remark “*what are Rules in this regard?*” on 16.09.2010, upon which Defendant No.2 had discussed the file with him and explained the Rules to him on 19.09.2010, to which he did not raise any objection. No opportunity was



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given to Defendant No.2 to explain the payment nor was he called in any Inquiry. He stated that there was no reimbursement sought from him.

23. The Issues on the pleadings were framed vide Order dated 16.09.2014, as under:

- (i) *Whether this suit has been duly instituted by authorized representative? OPP.*
- (ii) *Whether this suit is without cause of action? OPD.*
- (iii) *Whether the present suit is bad for mis-joinder/ non-joinder of necessary parties? OPD.*
- (iv) *Whether plaintiff is entitled for recovery of suit amount as prayed? OPD.*
- (v) *Whether plaintiff is entitled for the interest over the suit amount, if so, at what rate and for what period? OPP.*
- (vi) *Relief.*

24. The Plaintiff in support of its case, examined **PW-1** Mr. Abrar Hussain who proved the documents **Ex.PW1/1** to **Ex.PW1/6**, to explain the appointment of the Defendant No.1 and the various Orders of promotion and the Application dated 09.09.2010 **Ex.PW1/6** filed by the Defendant No.1, to seek reimbursement of Transport Allowance.

25. PW-2 Mr. N.P. Singh Retd. Joint DG (Administration & Work Force) in his evidence vide Affidavit **Ex.PW2/A**, proved the Show Cause Notice dated 13.06.2011 **Ex.PW2/1** was served upon the Defendant No.1 seeking refund of the Transport Allowance released to him.

26. PW-3 Sh. Girish Chandra Chaturvedi deposed on similar lines as **PW-1&PW-2** and corroborated their testimony.



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27. The Defendant / Appellant Shri P.K. Chawla did not adduce any evidence, in his defence.

28. Defendant No.2 Mr. K.U.K. Reddy examined himself as DW-1 and tendered his Affidavit of Evidence Ex.DW1/A.

29. The learned District Judge, on appreciation of the evidence, concluded that the Transport Allowance from 01.04.2009 to 31.08.2010, was against the Rules. He further relied upon Chandi Prasad Uniyal vs. State of Uttarakhand (2012) 8 SCC 417 to conclude that Defendant No.1 was liable to refund and thereby, decreed the Suit in favour of the Plaintiff / Respondent, against Defendant No.1.but dismissed it against Defendant No.2.

30. Aggrieved, the Appellant/ Defendant No.1 has challenged the Judgment on the ground that the Ld. Trial Court failed to appreciate that the Appellant was appointed as Deputy Director (Accounts) on 02.05.2007, promoted to Director (Internal Audit & Systems) on 17.12.2007, and thereafter, promoted as Deputy Director General (Internal Audit) vide Order dated 31.08.2010 with retrospective effect from 01.04.2009, entitling him to core salary of Rs. 60,000/- with admissible allowances, from the same date. The promotion Order itself granted admissible allowances vide Order dated 31.08.2010 w.e.f. 01.04.2009 and the Appellant continued receiving the same; therefore, the recovery suit was not maintainable. The Respondent No.1 never pleaded that the Appellant was not entitled to the Transport Allowance.

31. The Appellant had submitted Request Note dated 09.09.2010, through proper channel seeking reimbursement of Transport Allowance @ Rs.



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26,000/-, in accordance with the Financial & Administrative Guidelines of Organizing Committee, Commonwealth Games 2010, which provided 'MOBILITY SUPPORT TO OFFICERS/OFFICIALS' of Deputy Director General level and above. The claim was approved by Respondent No.2 on 19.09.2010 for a lump sum of Rs. 4,16,500/- @ Rs. 24,500/- per month, for the period 01.04.2009 to 31.08.2010. There was no misrepresentation or fraud, on the part of the Appellant.

32. The reimbursement was also approved by Sh. N.P. Singh, Joint Director General (Administration & Work Force), who forwarded the papers to A.D.G. (F&A) for release of the payment. Further, Transport expenses for September, October and November, 2010 were also paid to the Appellant @ Rs. 30,000/- per month, demonstrating his entitlement under the applicable Rules.

33. If the Appellant was not entitled to retrospective reimbursement, Respondent No.1 would not have paid Transport expenses @ Rs. 30,000/- per month from September to November, 2010; hence, the Impugned Order dated 30.07.2025 is liable to be quashed and set aside.

34. The Respondent No.1, *vide* Note dated 18.03.2011, made erroneous observations, not based on the facts or the Rules governing disbursement of Transport Allowance. Therefore, they are not binding upon the Appellant. On the basis of the Note dated 18.03.2011, impugned recovery Orders dated 29.03.2011 and 13.04.2011 and Show Cause Notice dated 25.05.2011 were issued to the Appellant, followed by a Legal/ Demand Notice.

35. It is submitted that Respondent No.1 also issued Legal Notice dated 02.03.2012 to Respondent No.2 seeking recovery of Rs. 6,24,763/- which



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was replied by Respondent No. 2 *vide* Reply dated 19.03.2012. Further, Respondent No.1 addressed letters dated 02.07.2012 and 14.08.2012 to the parent department of Respondent No.2 Indian Air Force, which *vide* Letter dated 17.08.2012, declined to initiate recovery proceedings against Respondent No.2.

36. It is submitted that the Ld. Trial Court failed to consider that Respondent No.1 itself sought recovery of Rs. 6,24,763/- from Respondent No.2 by Legal Notice dated 02.03.2012, which was replied on 19.03.2012.

37. It is submitted that although the Ld. Trial Court observed that Respondent No.2 could not be held liable as he did not receive the amount, Respondent No.1 itself attempted recovery from him, which indicates official approval of the payment. No misrepresentation or fraud was committed by the Appellant; reliance is placed on the Judgment of the Supreme Court in Thomas Daniel v. State of Kerala & Ors., 2022 SCC OnLine SC 536 prohibiting recovery from an employee, in absence of fraud.

38. Hence, the Impugned Judgment dated 30.07.2025 in Civil Suit No.177/2014, is liable to be set aside.

Submissions heard and record perused.

39. The perusal of the evidence shows that the Defendant No.1 who was earlier employed in Engineers India Limited, was appointed by the Organizing Committee, Commonwealth Games, Delhi 2010 as *Deputy Director (Accounts)* *vide* Letter dated 02.05.2007. He was thereafter, promoted to the post of Director (Internal Audit and Systems) at a consolidated salary of Rs.35,000/- *vide* Letter dated 17.12.2007. *Thereafter, the Chairman promoted the Defendant No.1 to the post of Deputy Director*

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General (Internal Audit) w.e.f. 01.04.2009, to be paid a core salary of Rs.60,000/- with admissible allowance w.e.f. the same day. Other terms and conditions of his appointment, were stated to be the same, as conveyed and accepted by him earlier.

40. This promotion of the Appellant was effected *vide* Letter dated 31.08.2010. The Defendant No.1 then applied on 09.09.2010 for Transport Allowance from 01.04.2009 till 31.08.2010 @ Rs.26,000/- per month i.e. the date from which the promotion was effective. This Note was allowed by Defendant No.2, K.U.K. Reddy for reimbursement for the said period @ Rs.24,500/- per month. This amount was released to the Defendant No.1 *vide* Cheque dated 22.10.2010.

41. Thereafter, the Shunglu Committee a High-Level Committee headed by V.K. Shunglu was set up, wherein various aberrations, were noted. It was observed that the Transport Allowance had been wrongly released to the Defendant No.1/ Appellant. This led to the Letters dated 09.11.2010, 27.12.2010, 18.06.2011 and 21.07.2011 to the Defendant No.1 seeking refund of the Transport Allowance for the sum of Rs.4,16,500/-.

42. The core question is whether the amount of Rs.4,16,500/- had been disbursed to the Appellant in accordance with the guidelines of the Organizing Committee **Ex.PW1/D** rules and procedure.

43. PW-1 Shri Abrar Hussain deposed that the disbursement of the allowance was to be made as per the Guidelines which provided that Officers at the rank of Deputy Director General are entitled for Conveyance Allowance. The Financial and Administrative Guidelines of the Organizing



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Committee, CWG, 2010 Ex.PW1/D1 Annexure II Clause I Sub-clause (iii) provided as under:

“Mobility Support To Officers/Officials

Officers of rank of Deputy Director General and above will be provided vehicles for official use and for transportation from their residence to place of work & back from the general pool of the Organizing Committee provided that vehicles could be provided on full time basis to my Officer/Staff on the basis of functional requirements with the approval of the Chairman.

Further clause -2 of the said annexure provides as follows:

(1) Local Travel (Travel within the limits of NCR)

i. For the purpose of local travel (within the limits of NCR), ADGs and above would be allotted dedicated cars. However, for the DDG level and Competition Managers, cars would be provided for travel to and from home to office and other business related travel (within the limits of NCR). The cars for the DDG level and Competition Managers, when not in use, would become pool cars, which can be used by the OC for other travel requirements.

ii. In case of dedicated cars allotted to ADGs and above and cars for travel to and from home to office and other business related travel within the limits of NCR for DDGs and Competition Managers, there would be a limit on the distance travelled and the same would be restricted to maximum 3000 kms per month. Log books will have to be maintained and certified by the users for such dedicated cars on a daily basis. Usage within the limit need to be self-approved.

v. In case the Organizing Committee is unable to provide transport to any employee for business-related



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travel within the limits of NCR as per the approved mode of conveyance mentioned above, the employee may use his/her personal transport on approval from the Functional Area Head. For any such travel, the employees will need to submit a self-attested copy of the original bills for all places of visit within the limit of NCR for approval as under:”

44. From this Rule itself, it emerges that the Officers of the rank of Dy. Director General and above, were provided for vehicle for official use and for transportation from their residence to place of work and back, from general pool of the Organizing Committee.

45. It is not the case of the Defendant No.1 that he was seeking the providing of the official vehicle. His entitlement was based on Rule (v) which provided that in case the Organizing Committee was unable to provide the conveyance, the employee may use his personal transport on approval from the Functional Area Head, and for any such travel, the employee will need to submit a *self-attested copy of the original Bill for all places of visit within the limit of NCR for approval.*

46. It is evident from these Rules that the entitlement of the Appellant was to seek an official car for the office purpose for visiting places within the NCR and the maximum distance which such official car could cover was 3000 Kms per month. In case the car was not available and the officer used his personal car, he was required to submit a self-attested copy of the original Bills for the place of visit for approval.



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47. Admittedly, the Defendant No.1 had no copy of the Bill to substantiate that he had been using the car for official purpose, and no such original Bill of claim had been submitted by him, for the previous period.

48. In this context, it is also pertinent to refer to the Application dated 09.09.2010 moved by Defendant No.1 seeking reimbursement of his travel expenses. It reads as under :

“Sub: Reimbursement of Transport Expenses

I have been promoted as DDG effective 1st April, 2009 vide office order Dated 31st August 2010 (Copy enclosed). I had been using my personal vehicle during the period instead of using the official vehicle. I was incurring an expenditure of more than Rs.26,000 a month during this period. The expenditure comprised of (Salary of Driver Rs. 8000, Fuel expenses (petrol Rs.10,000, average Monthly Mtc. Rs. 1000, Depreciation Rs.5000). I request that I may be reimbursed Rs.26,000 pm for the period in question and same was allowed vide noting dated 19.09.2010. In lieu of the same, an amount of Rs.4,16,500/- was released in favour of Defendant no.1 towards the Transport Allowance from the period 01.04.2009 to 31.08.2010 @ Rs.24,500/- per month.”

49. From the bare perusal of the Application it is evident that the Application is vague, in so much as it merely claimed a monthly expenditure of Rs.26,000/- with a breakage of salary of driver @Rs.8,000/-, fuel expenses @Rs.10,000/-, average monthly Rs.1,000 and Depreciation Rs.5,000/-. There was no single document filed by the Appellant in support of his contentions either to certify the salary of the driver, the fuel expenses or the maintenance charges. Furthermore, though depreciation of Rs.5,000/-



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was sought, but neither the make/model or registration number of the vehicle nor the principle of alleged depreciation of the car value, was stated in the Application.

50. As per the Rules, not only a log book was required to be maintained, but it also had to be corroborated with the Bills and the details of travel. No such details were provided by the Appellant, to justify his claim for reimbursement.

51. The sole basis for the Appellant to claim the Travel Allowance was that in his Promotion Letter dated 31.08.2010, he was held entitled w.e.f. 01.04.2009, to the admissible allowances. While the Appellant was held entitled to allowances from the retrospective date of promotion, but he could have claimed the allowances only in accordance with the Rules. As already discussed, there were no Logbooks, entries or details submitted by the Appellant to seek the Transport Allowance. There was no fixed amount awarded to him as Transport Allowance.

52. Furthermore, it is evident that the Transport Allowance inherently, was a reimbursement for the expenditure incurred on Transportation, for office purposes. Unless the claim was supported by genuine documents and the Bills, no reimbursement could have been allowed to the Appellant, as per the Rules.

53. Another enormous situation which emerges from the testimony of the witnesses of the Respondent, is that the Appellant had made a claim for reimbursement @ Rs.26,000/- per month, but Defendant No.2 K.U.K. Reddy had chosen to restrict it to Rs.24,500/-. Though he had appeared as



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DW-1, but nothing from his evidence can be extracted to justify on which basis did he reduce the amount to Rs.24,500/-.

54. In this regard it is also pertinent to refer to testimony of **PW-3** Shri Girish Chandra Chaturvedi who, being Special DG (F&A), was the Head of Finance and Accounts, Functional Area. He deposed that he had noted his objections on file on 18.03.2011 **Ex.PW2/2** as under :

"It is unfortunate that the then ADG (FEA), Shri KUK Reddy noted 'Discussed' on the file without discussing it with me and got the payment done. I had and still have the following objections :

(i) Allowance like Conveyance Allowance are not paid retrospectively;

(ii) On what basis the amount of Rs.24,500/- per month decided when FA (Office Administration) had been paying only Rs.20,000/- per month to other availing of this allowance with proper permission.

Prima-facie, the promotion of Shri Chawla with retrospective effect itself was not warranted. It is completely arbitrary order without any processing on the

basis of the performance. On the top of it, claiming of conveyance allowance by Shri Chawla with retrospective effect compounded the aberration. Both FA, (Office Administration) and Finance 8: Accounts did not examine the proposal properly.

It is proposed that the amount be recovered from Shri Chawla. If this attempt fails, the amount may be recovered from Shri Reddy who in spite of my query went ahead and paid."



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55. PW-2 Shri Bharat Prasad Dy. Director General (Finance & Accounts) had also corroborated the testimony of **PW-3** Shri Girish Chandra Chaturvedi in regard to Note not having been discussed with PW-3 and that the reimbursement had been allowed by K.U.K. Reddy against the guidelines of Reimbursement. He further deposed that he had issued a Show Cause Notice dated 13.06.2011 **Ex.PW2/1** to K.U.K. Reddy and sought explanations as to why the amount of Rs.4,16,500/- towards Transport Allowance had been unauthorizedly ordered to be released to P.K. Chawla.

56. The overwhelming evidence and the Rules, as discussed above, established that the Defendant No.1 though promoted retrospectively from 01.04.2009, but he could not claim for retrospective Transport Allowance, without submitting the expenditure Bills, which had been erroneously sanctioned against the guidelines and had been and even released to him.

57. Having so noted, the *most pertinent question which arises* is whether the refund of the amount so released to the Appellant/Defendant No.1, could be directed to be recovered from him, especially when it is not a case of fraud, but misapplication of the Rules.

58. The Apex Court in Thomas Daniel (supra) observed that if the excess amount was not paid on any mis-representation or fraud of the employee or if it was made by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of Rule or Order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. The justification given was that such recovery is not to be granted, not because of the right of the employee, but in equity exercising judicial discretion to provide relief to the



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employees from the hardship that would be caused if the recovery is ordered. It was further qualified if in a given case, it is proved that the employee had knowledge that the payment receipt was in excess of what was due or wrongly paid *or in cases where error is detected or corrected within a short time of payment, the matter being in the realm of judicial discretion, the Court may on the facts and circumstances of a particular case, order the recovery of the amount paid in excess.*

59. The Supreme Court in the case of Col. B.J. Akkara (Retd.) vs. Government of India and Others(2006) 11 SCC 709 while considering the identical question, held that the recovery of excess wrong payment of the emoluments/ allowances from an employee, may be made if following conditions are satisfied:

(a) *The excess payment was not made on account of any misrepresentation or fraud on the part of the employee;*

(b) ***Such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.***

28. *Such relief restraining back recovery of excess payment is granted by courts not because of any right in the employees, but in equity, in exercise of judicial discretion to relieve the employees from the hardship that will be caused if recovery is implemented. A government servant, particularly one in the lower ranks of service would spend whatever emoluments he receives for the upkeep of his family. If he receives an excess payment for a long period, he would spend it, genuinely believing that he is entitled to it. As any subsequent action to recover the excess payment will cause undue hardship to him, relief is granted in that*



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behalf. But where the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or where the error is detected or corrected within a short time of wrong payment, courts will not grant relief against recovery. The matter being in the realm of judicial discretion, courts may on the facts and circumstances of any particular case refuse to grant such relief against recovery.

29.....”

60. Similarly, in the case of Syed Abdul Qadir and Others vs. State of Bihar and Others (2009) 3 SCC 475 the Apex Court held that where the excess payment was made on account of the mistake or wrong interpretation of the Rules, the recovery of excess payment should not be ordered, especially when the employee has subsequently retired.

61. The principles were thus, crystalized in the case of State of Punjab and Others vs. Rafiq Masih (White Washer) and Others (2015) 4 SCC 334, as under :

“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.



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(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."*

62. The Apex Court in Chandi Prasad Uniyal vs. State of Uttarakhand (2012) 8 SCC 417 reiterated as under :

*"We are concerned with the excess payment of public money which is often described as "tax payers money" which belongs neither to the officers who have effected over-payment nor that of the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in such situations. Question to be asked is whether excess money has been paid or not may be due to a bona fide mistake. Possibly, effecting excess payment of public money by Government officers, may be due to various reasons like negligence, carelessness, collusion, favouritism etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault then the mistake is mutual Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. **Any amount paid/received without authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right, in such***



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situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment.”

63. The aforesaid Judgments, therefore, make it abundantly clear that where the error occurs on account of wrong application or misinterpretation of the Rules, the recovery may be sought *provided it is initiated soon after the reimbursement*. In the present case, the wrong reimbursement of the Transport Allowance was made to the Appellant/Defendant No.1 on 19.09.2010 and the recovery of the same was sought though Letter dated 11.03.2011; there was no delay on the part of the Organizing Committee, Commonwealth Games to seek the amount that had been wrongly disbursed in favour of the Plaintiff. *Moreover, reasonable opportunity was given to the Appellant to provide the explanation.*

64. The Learned District Judge, therefore, rightly held that the Respondent/ Plaintiffs were entitled to recovery of the excess payment made to the Appellant.

65. The Learned District Judge in his discretion considered granting interest @ 3% per annum, considering that the Appellant was a Senior Citizen who had been contesting the Suit for 13 years since 2014 in the Court. However, it is writ large on the face of the record, that there is no misconduct attributable to the Appellant and awarding interest, would be putting a premium on the mistake of the Respondent. Therefore, it is held that no grant of interest is justified, in the circumstances.

66. It is thus, held that the Ld. District Judge has rightly decreed the Suit against the Appellant, for recovery of Rs.4,16,500. However, it is held that



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the Respondent is not entitled to any interest on the principal amount. *The impugned decree is accordingly, modified.*

67. The Appeal along with the pending Application(s) is disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH 12, 2026
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