



**Central Administrative Tribunal
Principal Bench**

OA No.959/2020

New Delhi, this the 30th Day of July, 2020

Through Video Conferencing

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member(A)**

Smt. Durgesh (Aged 46 years)

D/o Late Sh. M.P. Sharma

R/o E-12, MCD Flats, Kamla Nagar

Delhi-7

Working as Operation Theater Technician (MBID-10015616), Hindu Rao Hospital. Applicant.

(By Advocate : Shri R. K. Shukla)

Vs.

1. North Delhi Municipal Corporation
Through its Commissioner,
JLL Marg, Civic Centre, New Delhi-2.

2. Medical Superintendent
Hindu Rao Hospital,
Delhi.

3. Administrative Officer
Hindu Rao Hospital,
Delhi. Respondent.

(By Advocate : Shri R. K. Jain)



: O R D E R (O R A L) :

Justice L. Narasimha Reddy, Chairman:

The applicant is working as Operation Theatre Technician in the North Delhi Municipal Corporation. He was extended the benefit of 1st MACP w.e.f. 01.09.2008. He was issued a Notice dated 24.07.2020, stating that the 1st MACP was wrongly fixed and as a result, a sum of Rs.4,98,759/- was paid in excess. Through the said notice, the Corporation directed the applicant to deposit the amount referred to above. This O.A. is filed, challenging the Notice dated 24.07.2020.

2. The applicant contends that the 1st MACP was fixed strictly in accordance with the relevant provisions of law and there was absolutely no basis to direct recovery of the amount. It is also stated that no Show Cause Notice was issued and, straightaway recovery was directed.

3. We heard Sri R.K. Shukla, learned counsel for the applicant and Sri R.K. Jain, learned counsel for the respondents, who took notice, at the stage of admission.



4. Though it is named as 'Notice', in effect, the one dated 24.07.2020 is an order, directing recovery. It was mentioned that as a result of the sanction of 1st MACP, a sum of Rs. 4,98,759/- was paid in excess. Straightaway the applicant was directed to deposit that amount to the Municipal Treasury immediately.

5. If it is found that there was any discrepancy or irregularity in sanctioning the 1st MACP or extending other benefit, the only course open to the respondents is to issue Show Cause Notice, requiring the applicant to explain as to why the proposed action be not taken. Admittedly, no such notice was issued in this case. On this short ground, the impugned Notice is liable to be set aside. We are, however of the view that the Notice can be treated as the one requiring the applicant to show cause, and the respondents be given an opportunity to pass an order on consideration of such representation.



6. We, therefore, dispose of this O.A, directing that the impugned Notice dated 24.07.2020 shall be treated as a Show Cause Notice, giving 15 days time to the applicant to submit his explanation to the proposed action. It shall be open to the 3rd respondent to pass a reasoned order on consideration of representation. Till such an order is passed, no recovery shall be effected from the applicant. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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