

**Central Administrative Tribunal  
Jaipur Bench, Jaipur**

**M.A. No.564/2020  
In  
O.A. No.184/2020**

Reserved on :05.03.2021  
Pronounced on: 10.03.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)  
Hon'ble Mrs. Hina P. Shah, Member (J)**

Somnath Mishra ...Applicant.

(By Advocate: Shri Amit Mathur)

vs.

Union of India & Others. ...Respondents.

(By Advocates: Shri Anand Sharma for Respondent No.1 and  
Shri V.D.Sharma for Respondent No.2)

**ORDER**

**Per: Dinesh Sharma, Member (A):**

The Miscellaenous Application (No.564/2020) has been filed by Respondent No.2. for vacating this Tribunal's interim order dated 20.03.2020 by which the recoveries pursuant to orders dated 15.10.2019 and 05.11.2019 were stayed. It is stated that the respondents have already filed a detailed reply to the OA which will show that the applicant does not have a *prima facie* case.

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2. The matter was heard on 05.03.2021. The learned counsel for the Respondent No.2 (MA applicant) argued that a wrong pay fixation was done when the applicant was himself the HoD and thus cannot escape the blame for the mistake. The pay on getting IAS was wrongly fixed protecting this wrongly fixed pay earlier and hence the need for correction. The applicant being a high ranking officer who has himself given an undertaking for recovery in case of wrong payment, cannot get protection from recovery of excess amounts paid from the public exchequer. Other, similarly placed employees have agreed to the recovery of similarly made excess payments.

3. We are not going into the detailed merits of this case at this stage. The present decision is only about whether to continue with the ex-parte stay order on recovery issued on 05.03.2021. After going through the available records and hearing the arguments, we are satisfied that, *prima-facie*, the applicant does not have a very strong case. No irreparable loss will be caused to the applicant, if the recovery is made of the amounts allegedly paid in excess of entitlement. The balance of convenience also lies in favour of not staying the recovery since there is a higher probability of applicant not being able to pay up if the amount is

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ultimately found to be recoverable. The applicant was a very high-ranking officer and other similarly placed officers have already paid up or allowed the amount to be recovered.

4. Taking all these factors into account, the interim order dated 20.03.2020 is hereby vacated.

5. List the OA on 26.04.2021 under appropriate heading.

(Hina P. Shah)  
Member (J)

(Dinesh Sharma)  
Member (A)

/kdr/