

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

**M.A. No.198/2019
In
O.A. No.347/2018**

Date of Decision 18.03.2021

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

Snehlata Panwar ...Applicant.

(By Advocate: Ms.Kavita Bhati)

vs.

Union of India & Others. ...Respondents.

(By Advocates: Shri Anand Sharma for Respondent No.1 and
Sh.V.D.Sharma for Respondents No.2 and 3)

ORDER (ORAL)

Per: Dinesh Sharma, Member (A):

The Miscellaneous Application (No.198/2019) has been filed by Respondents No.2 and 3 for vacating this Tribunal's interim order dated 31.07.2018 by which the recovery pursuant to order dated 21.06.2018 (Annexure A/1) was stayed. It is stated that the Respondents No.2 and 3 have already filed a detailed reply to the OA which will show that the applicant does not have a *prima facie* case nor does the balance of convenience lie in her favour. The department will suffer irreparable loss if the stay order is not vacated.

(2)

2. The learned counsel for the Respondents No.2 and 3 (MA applicant) argued that a wrong pay fixation was done due to a wrong interpretation of order dated 07.04.2017. This was corrected by the impugned order 21.06.2018. The applicant has not assailed the legality and validity of the OM on the basis of which the correction has been made. The applicant being a high ranking officer who has herself 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 and recoveries have already been made from them. The learned counsel for the applicant argued that the facts of this case were different from that of Mahaveer Prasad Sharma's case (another case where the Tribunal has recently vacated a stay on recovery from a high ranking retired officer) and therefore, the stay should not be vacated.

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 31.07.2018. After going through the available records and hearing the arguments, we are satisfied that, *prima-facie*,

(3)

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 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, MA No.198/2019 is allowed and the interim order dated 31.07.2018 is hereby vacated.

5. List the OA on 26.04.2021 under appropriate heading.

(Hina P. Shah)
Member (J)

/kdr/

(Dinesh Sharma)
Member (A)